

FREEDOM OF INFORMATION
IN THE STATE AND LOCAL GOVERNMENTS OF KANSAS

by

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INTRODUCTION

In 1787 the United States Constitutional Convention met behind closed doors in Philadelphia. When the Constitution came up for ratification in the Assembly of the State of Virginia, the patriot Patrick Henry raised his voice to denounce bitterly the secrecy in which the document had been written.

"Look at us --- hear our transactions!" he shouted. "'If this had been the language of the Federal Convention,' there would have been no Constitution. . . ."¹ ". . . to cover with the veil of secrecy the common routine of business, is an abomination in the eyes of every intelligent man and every friend of his country."²

From that day to the present the clamor to open the doors of government continued, sometimes loudly and vigorously, sometimes with little more than a whisper.

In 1954 the demand had become particularly strong in many parts of the United States. A movement, sponsored by a variety of news media organizations, had covered the nation and reached into Kansas with the slogan, "The People's Right to Know".

Dr. Harold Cross, author of The People's Right to Know, declared: "Public business is the public's business. The people have the right to know. Freedom of information is their just heritage. Without that the citizens of a democracy have but changed their kings."³

¹Albert J. Beveridge, The Life of John Marshall, Vol I, p. 405.

²Elliot's Debates, Vol. 3, p. 170; quoted by Harold L. Cross, The People's Right to Know, p. 129.

³Harold L. Cross, The People's Right to Know, p. xiii.

Sigma Delta Chi's Freedom of Information Committee stated in its final report of 1953:¹

Man's struggle for his right to know about his government has been synonymous with his struggle for freedom. Actually, the two great principles are nearly synonymous with themselves. And they are so interlocking that you cannot have one without the other. Freedom depends absolutely upon the exercise of public opinion upon the people's government. It is impossible for public opinion to be exercised unless the people have all the facts at the time and not after the fact, when it is too late.²

But with the cry to bare the councils to the public view, came those who felt that there may be reasons for keeping the doors at least partly closed. John G. Stutz, Executive Director of the League of Kansas Municipalities, expressed such an opinion in an article prepared for the Kansas Government Journal. He said:

Unrestricted public attendance at the conduct of public affairs can destroy our representative government just as unrestricted public attendance at the conduct of our private affairs would destroy our private lives.

Our constitutions, laws and customs indicate that public attendance at the conduct of certain public affairs is good and useful. Likewise our laws and customs indicate that public attendance at the conduct of certain other public affairs should be limited to that which is in the best interests of effective representative government.³

The subject faced Kansans on many sides. National organizations urged Kansas newsmen to join the fight to expose government secrets. Hence, editorials were written to gain the support of the people in Kansas, and a

¹Sigma Delta Chi's Freedom of Information Committee made three reports during 1953: "An Interim Report," undated; "A Second Interim Report," August 15, 1953; and "A Final Report," November 1, 1953.

²"A Final Report of the Committee for Advancement of Freedom of Information of Sigma Delta Chi Fraternity," November 1, 1953, p. 1.

³John G. Stutz, "Public Attendance at the Conduct of Public Affairs," manuscript for publication in a future issue of The Kansas Government Journal, p. 17.

proposal was brought before the Kansas Legislative Council to offer a bill to the 1955 session of the legislature opening all or certain government meetings to the public and the press.

Purpose and Methods

This report was prepared in order to establish whether legislation to open government meetings and records to the press and public is necessary and to what degree it is supported by Kansas newsmen and public officials. The first step was to find out the status of the law in the state. This required a study of constitutional interpretations and a thorough examination of the General Statutes of Kansas 1949, the 1951 Supplement to General Statutes of Kansas 1949, and the Kansas Session Laws 1953.

The next step was to determine relative conditions in the state and local governing bodies. Conditions at the local level were investigated by means of a questionnaire to newsmen and the governing officials. At the state level, the practices of state departments, boards, commissions and agencies were arrived at through replies from these organizations to a query by Dr. F. H. Guild, Director of the Research Department, Kansas Legislative Council.¹

The final step in the study was to sound out a fairly reliable consensus from newsmen and public officials as to whether such legislation is necessary and to what degree it would be supported. This was accomplished through the questionnaires mentioned above and through correspondence and interviews with

¹F. H. Guild, letter to Kansas administrative bodies, December 4, 1953. Appendix "B" under "State Agency Questionnaire."

various public officials.

Definitions

Certain definitions are necessary for uniform interpretation of terms.

Government Meeting. A "government meeting" is a meeting of any governing body in a legislative or quasi-legislative capacity; a school board, city council or commission, county commission, state agency, legislature, legislative committees or the United States Congress or congressional committees, meeting to determine policy. Certain administrative actions may also be transacted in a government meeting.

Regular Meeting. A "regular meeting" is a government meeting regularly scheduled by statute, regulation, ordinance or practice.

Special Meeting. A "special meeting" is a government meeting called for a special purpose at a time other than a regular meeting.

Public Meeting. A "public meeting" is a government meeting which the public and press are permitted to attend.

Executive Session. The League of Kansas Municipalities, in its Handbook for City Governing Body, defines the term: "An executive session is a secret session of the governing body. Its object is to prevent publicity of the action taken."¹ This definition would tend to indicate that the meeting could not be called an executive session unless action of some kind were taken. However, since many of the quotations used herein apparently give a much broader construction, the term will include any secret session of the governing body, whether for legislative action, administrative action, or

¹Handbook for City Governing Bodies, The League of Kansas Municipalities Section 158.

merely for discussion.

Hearing. A "hearing" is a meeting of any governmental body in a statutory quasi-judicial capacity. Also, a meeting of any governmental unit to determine facts upon a particular issue. Hearings are public or private, depending upon their purpose.

Public Record. "A public record is one required to be kept, or necessary to be kept, in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said or done; . . ."¹

Privileged Record. Any public record, which by statute, regulation, ordinance, or common law, is excluded from examination by the public or press is termed "privileged".

Notice. Notification of persons concerned that a hearing or government meeting is to be held is termed "notice".

Public Notice. Notification of the general public and press that a government meeting or hearing is to be held is termed "public notice".

Press. The term "press" includes representatives of newspapers, radio stations, television stations, or any other news gathering agency.

FBI. Freedom of Information is abbreviated "FOI".

FREEDOM OF INFORMATION ON THE NATIONAL SCENE

This section was not designed to cover completely the field of freedom of information in the United States. Nor was it meant to present a true picture of conditions nationally. Rather, it was prepared as a summary of

¹Gross, op. cit. p. 45.

theories and practices which affect such conditions with the objective of, at least partially, explaining why the issue has become of interest in Kansas.

Freedom Challenged

The national campaign was a prime mover in developing interest in Kansas. The arguments used by national organizations were accepted almost verbatim, in many cases, by movement leaders and enthusiasts in the state. There were, of course, local applications. A student editorial in the Kansas State Collegian illustrates the point.

Ohio State University's newspaper has at last hit the jackpot it seems. For several years the lantern has complained because it was not allowed to cover the closed meetings of the university's board of trustees. Now because of a state law recently effected, all state boards with one exception are required to have open meetings.

Such a law is in the wind for consideration of the Kansas legislature at its next session, and it should stir up a hornets' nest. Considering the number of councils on the campus that have closed meetings it would be a pretty good guess that there is a tough row to hoe before the bill is passed. The Board of Regents, Faculty Senate, Athletic Council, not to mention the various executive and administrative councils might be alarmed with the thought of having a reporter sitting in.

All of which brings up the question --- why closed meetings anyhow? We have yet to hear a good sensible reason. Of course there is the old cry that there is more freedom of participation without someone there ready to quote what the board members say. However, if they don't have enough facts to back up what they say, they should keep their mouths shut anyway.

In some of these meetings it would be nice to know just where our representatives stand on different issues. It might be surprising.

The closed meetings aren't particularly hurting the newspaper. We can always find something to fill the space, even if it is only the propaganda the board releases. It's John Q. Public who is getting the raw deal. It's his money that supports the school, and his children who are attending the school. He helps pay the salaries, and he ought to know where and how his money is being spent. And not just from the annual budget that tells the public absolutely nothing.

It is often asked why the people take such a dim view of government officials. Perhaps, the answer could be in the manner in which they do their job. Closed meetings and secret agreements always lead to suspicion.¹

The similarity between these arguments and ones prepared by the national news organizations is readily apparent.²

The Freedom of Information (FOI) committee of Sigma Delta Chi, national journalists fraternity, reported to the organization members:

Reports to your Committee from all sections of the country indicate that secret executive sessions by our public servants are universal on all levels of American government.

A city council, for instance, holds such an executive session behind locked doors, with press and public barred, irons out all inter-council difficulties, with perhaps a political privilege or two tossed in. Then at the formal, open meeting, the council railroads the people's business through, all out and dried, with very little restraint in the form of public opinion.³

. . . Rhode Island city officials bar public inspection of tax abatement records; a Georgia school board refused to disclose the salary of its superintendent of public instruction; an Alabama police department keeps secret dockets; a New Mexico sheriff refuses to make public records of automobile accidents; a California state liquor board drops the shutters on all records of its transactions.

Similarly, in our Federal Government, the Department of Agriculture and the Office of Price Administration balk at disclosing lists of their employees with salaries and duties; the RFC and the FEA do all their business with the people's funds in secret.⁴

¹Sam Logan, "Public Deserves End to Closed Meetings," *Kansas State Collation*, March 8, 1954, p. 2.

²Compare with "An Interim Report," "A Second Interim Report," and "A Final Report," of Sigma Delta Chi Fraternity FOI committee.

³"A Second Interim Report of the Committee for Advancement of Freedom of Information of Sigma Delta Chi Fraternity," August 15, 1953, p. 2.

⁴"An Interim Report of the Committee for Advancement of Freedom of Information of Sigma Delta Chi Fraternity," undated, p. 1.

With these asserted conditions, the newspapers and news organizations took up the challenge. Declared Dr. Harold Cross, council for the American Society of Newspaper Editors, and author of The People's Right to Know:

As one who has never dissembled his abiding interest in news-gathering and warm respect for those thus engaged, I have been at some pains to take an affirmative position of advocacy of newspaper strategy and tactics, including more frequent litigation to force access, and to condemn the lay's "stickiness" in bringing itself to the service of modern needs. If the result is something of a call to battle with some sacrifice of neutrality and objectivity, and (to make use of Patrick Henry . . .), if this be treason, make the most of it.¹

Each of the national news organizations² has an FOI committee whose function is to lodge formal protests against those governmental bodies (on the local, state, or national level) who violate the principals of freedom of information. They push model legislation at state legislative gatherings, and assist groups such as the Kansas Press Association to organize fights against local abuses. Each member of the organization is urged to protest each local act of secret government.

The Causes of Abuse

Sigma Delta Chi has listed the causes of censorship and secrecy in American government as follows:

1. Self-seeking politicians who, upon election or appointment, regard their offices as their private possessions, to do with as they wish, and with no regard for their responsibilities to the people.

¹Cross, op. cit. p. xvi.

²Includes American Society of Newspaper Editors, Radio Television News Directors Association, Sigma Delta Chi, Associated Press Managing Editors Association, and the National Editorial Association.

2. Apathy of the public, which is consumed with the complexities of modern life and which does not realize the dire effects of secret government upon their liberties.

3. The refusal of certain segments of the press and radio, because of selfish or other reasons, to live up to the obligations which a free people confer upon a free press.¹

Somewhat similar, but more detailed, were the causes advanced by Dr.

Harold Cross:

1. The backwash of world trends toward secrecy in government, and interference in news activities.

2. Habits of secrecy and censorship flowing from war. . . .

3. The burgeoning effect of the doctrine of "right of privacy", advanced sixty years ago, and recipient of a measure of legislative and judicial support since. . . .

4. Successful advocacy in legislative chambers and elsewhere by social and welfare workers, by proponents of secrecy, and by opponents of publicity.

5. Loss of faith, apparently progressive, in the deterrent effect of publicity in such matters as crime, wrongdoing short of criminality, neglect of family, individual responsibility and official misconduct.

6. A tendency on the part of the press, under pressure of other problems, to let adverse trends go unchallenged.²

Freedom of Information in the National Government

With crusading ambition, secrecy in the federal government was attacked.

In regard to federal records, Dr. Cross stated:

The dismaying, bewildering fact is that in the absence of a general or specific act of Congress creating a clear right to inspect -- and such acts are not numerous -- there is no enforceable legal right in public

¹"A Final Report," op. cit. p. 3.

²Cross, op. cit. p. 12.

or press to inspect any federal non-judicial record.¹ . . . Instead the opportunity of the people to know depends upon the favorable emergence of official grace or indulgence or "discretion". . . .

It is true, of course, that through official grace, indulgence and leniency, a large volume of news of matters of official record is released for public consumption. The extent to which, the manner in which, the efficiency with which, the effect of which, and the cost at which such release comes about are subjects of vigorous differences of opinion among newsmen and others. . . . The facts remain that a large volume of such news, of which the public has a right to know, is not thus released and that in the main the selection is a matter of official right, not public right.²

The Sigma Delta Chi FOI committee finds conditions in respect to federal meetings no better:

The April issue of Congressional Quarterly, a Washington publication devoted to the business of Congress, reported that of the more than 800 Congressional Committee meetings during the first three months of 1953, more than 400 were held secretly behind locked doors, with press and public barred. Only 43 of these secret meetings dealt with defense secrets, while more than 200 of them were locked door sessions of the House Appropriations Committee.³

Sigma Delta Chi made their view known to Congress by lodging 28 formal protests against 46 secret Congressional Committee meetings during June and July of 1953. These protests were directed to the late Senator Taft and Senator John A. McClellan, who were Republican and Democratic leaders respectively in the Senate. Taft was in sympathy with the protests but upheld the right of Senate committees to use secret sessions.⁴

¹"The right of the press to access to judicial records with the exceptions stated to the end that it may print news of legitimate public interest is clear, strong, dependable." *Ibid.*, p. 152.

²*Ibid.*, p. 127.

³"A Final Report," *op. cit.* p. 5.

⁴"A Second Interim Report," *op. cit.*, p. 6.

Senator Johnson gave your Committee the old brush-off and quoted the Senate Rule, a part of the Legislative Reorganization Act of 1946, as follows:

Section 133 (f): All hearings conducted by standing committees or their subcommittees shall be open to the public, except executive sessions for marking up bills or for voting or where the committee by a majority vote orders an executive session.¹

The SDX committee reported an incident in which members of the clergy had been linked to Communism in a closed door session of the House Un-American Activities Committee. The committee felt that the mere announcement by the House organization that clergy were linked to Communism, without identifying the individuals involved, brought suspicion upon the entire profession.² It was also recalled, by the FBI committee, that Bernard Baruch had sent a telegram to Senator Capehart's Senate Banking and Finance Committee in March of 1953 querying, "How can the people who fight and die, suffer and pay, pass judgment if they are left unaware of what and why legislation is passed?"³

The Administrative branch of federal government came in for its share of criticism by the national journalism fraternity.

. . . we strongly suspect that . . . there is no such animal as free, open government in our Washington agencies.

This suspicion is based on three cases that came to your Committee's attention during the year, as follows:

1. The federal Civil Service Commission, which meets secretly, refused to make public a list of former Congressmen receiving federal pensions on the grounds that it violated the privacy of said former Congressmen.

2. The Federal Trade Commission, meeting secretly, brought charges of anti-trust violation against Florida's cooperative Citrus Mutual and refused to disclose the name of the person who brought the complaint.

¹loc. cit.

²Ibid., p. 9.

³loc. cit.

3. The Interstate Commerce Commission, meeting secretly, authorized the Railway Express Agency to raise its charges on an average of 15 percent, which, unexpectedly added extra cost onto mail order businesses and customers.¹

An optimistic note was sounded by the Freedom of Information Committee of the Radio-Television News Directors Association. It reported in 1953 that the presence of microphones at public affairs is not so opposed as in the past, except by those who fear public reaction to what they say.²

For example, the Radio and Television Correspondents Association in Washington has obtained consent, after a long campaign, to record most news conferences on the executive level. These include presidential news conferences, and those in the departments of state and defense. Another notable improvement on the federal level has been the ruling by House Speaker Joseph Martin, allowing chairmen of congressional committees to decide whether to admit radio and television for coverage of committee hearings. This is not the completely free access which must be our ultimate goal, but it is a vast improvement over last year's ruling by Speaker Sam Rayburn, flatly excluding the camera and the microphone from all committee hearings.³

Freedom of Information in the State Governments

The national news organizations directed much attention to abuses of freedom of information in the legislatures of the various states. Sigma Delta Chi protested the action of the North Carolina lawmakers in repealing the state's Anti-Secrecy Legislation Act. "It was a brazen demonstration of autocratic public servants taking over the people's business behind

¹loc. cit.

²"A Report to the Radio Television News Directors Association Concerning Progress in the Campaign for Preservation of Freedom of Information in America, "RTNDA Committee on Freedom of Information, October 27, 1953, p. 6.

³loc. cit.

locked doors," declared the organization.¹

The Colorado Press Association conducted a local skirmish that was still in doubt in January, 1954. The January issue of The Colorado Editor declared:

Freedom of the Press as a right of the people, not merely a privilege of the newspaper industry, is the ground on which Colorado Press Association has determined to make a stand against the spreading tendency among public officials to limit publication of their official actions. This month, through a Grand Junction attorney, the Association and the Grand Junction Sentinel warned Mesa County commissioners of their intention to bring suit to test the commissioners' interpretation of certain Colorado publication laws.²

Difficulties were encountered by the Radio-Television News Directors Association in New York when a law was passed barring radio microphones and television cameras from courtrooms and legislative hearings. Declared the FOI committee:

It is the belief of the committee that the New York law is one of the most restrictive and therefore the most dangerous act of its kind on the books of any state. It betrays a basic lack of understanding and respect for the principle of freedom of information, and it deprives the people of their right to know fully about their state government and their courts.³

At the state level, however, the most striking gains were made in freeing government from secrecy. Laws were passed in Indiana, California, Washington and Idaho during 1953 which purported to eliminate secret proceedings of public officials.⁴ In addition, 1954 found Ohio passing a new

¹"A Final Report," op. cit. p. 3.

²"The People's Right to Know," Colorado Editor, January 1954, p. 3.

³RWDA Committee, op. cit. p. 2.

⁴"A Second Report," op. cit. p. 10.

law requiring all meetings of state boards, commissions, agencies and authorities to be open to the public. Sigma Delta Chi commented on the California statute:

The California law, setting forth magnificent principles of freedom of information, or the right of the people to know, was all embracing, including all city and county agencies, as well as all state agencies. However, Governor Earl Warren signed only the law for public meetings of city and county agencies but vetoed a companion law for public meetings of all state agencies, including the Legislature and its committees.

Editor and Publisher very properly commented on Governor Warren's selectivity and lack of consistency, pointing out: "Surely, if the Governor is agreeable to protecting the people's right to know at the local level, he should feel the same way about his own state government."¹

The Journalism fraternity did not rest on its laurels, however, for it revealed that campaigns were being waged in fourteen states, including Kansas, promoting laws guaranteeing the right of public inspection.²

The Texas legislature adopted a resolution in March of 1953 which showed the effects of national news organization activities. It condemned secrecy, not only on the state level, but on the national level as well.

Senate Concurrent Resolution 25, Memorializing the Congress and the Legislatures of the various States as to the people's right to know about their own government.

Whereas, the people's right to know about their own government is a right indispensable to the maintenance of all other rights of a free people; now therefore, be it

Resolved, by the Senate of Texas, the House of Representatives concurring:

(1) That the Congress of the United States and the Legislatures of the several States be and hereby are urged to give the most careful scrutiny to all enactments to see to it that provision is made for the

¹Loc. cit.

²"A Final Report," *op. cit.*, p. 4.

full disclosure to the public of those transactions of government that are the just and proper concern of the public, so that no board, agency, commission or department of government may utilize a legislative omission, or an ambiguous declaration, to cloak in secrecy the identity of public servants, their remuneration or duties of any of the operations of government about which citizens must be informed if they are to discharge their duties and responsibilities in a democratic society;

(2) That the officers of the government of the United States, the officials of the several States, and those of the counties and cities of the United States be and hereby are urged to conduct publicly the business; to make continuously that full disclosure of all public transactions that is the foundation of our freedom and the surest safeguard against corruption and malfeasance, tyranny and oppression;

(3) That citizens everywhere be alerted to the ever present danger that free government may be subverted by secret proceedings that throughout the history of the world have been the refuge of corrupt, wicked, and reactionary governments; . . .¹

Freedom of Information in the Courts

Even the courts came in for criticism by national news organizations during 1953. Sigma Delta Chi alleged activities ". . . in direct violation of the Sixth Amendment of our Constitution ."² The FBI committee protected the exclusion of public and press from the Jelke vice trial in York, a rape case in Virginia, and a case of 12 youths, tried in secret, having been charged with preying on cars in Colorado lover's lane.³ Leon Olson of the Denver Post reported in the November issue of The Colorado Editor:

E. E. Anderson, Arapahoe county judge, ordered a tight cloak of secrecy around two juvenile trials in June (1953) in the name of "protecting the little fellows." His orders went far beyond the

¹"An Interim Report," GR. cit. p. 8.

²"A Final Report," GR. cit. p. 3.

³leg. cit.

usual prosecutions observed by newspapers in handling juvenile cases. Judge Anderson said reporters couldn't even report that there was a trial or the time of trial.

His action drew immediate fire. District Judge J. Arthur Phelps of Pueblo said "all members of the Colorado bench neither share the attitude nor appreciate the remarks of Judge Anderson. . . ."

Judge Phelps said such action may be contributing to juvenile delinquency. "I have found few violators who are willing to stand in the searching light of publicity, but the more they can do in the dark and in secrecy, the more likely they are to commit crime," the judge said. . . .¹

According to SDX's Freedom of Information Committee, "Most of the 12 states giving the right of inspection by Statute have special laws denying the public to records of juvenile courts, illegitimate children, adoption and orphanage proceedings."²

Summary of National Conditions

As was indicated at the beginning of the section, the incidents and views expressed above do not necessarily paint the true picture of conditions nationally. Nor do they represent the views of all newsmen. The quotations were taken mostly from convention reports, which traditionally appeal to the emotions rather than sound reasoning.

Nevertheless, it is reasonably certain that secrecy in government has become abusive in many cases. Though successful state legislation was due in part to the vigorous work of the news media, it could not be expected that legislators would restrict the activities of fellow public officials unless conditions clearly warranted such action.

¹Leon Olson, "The Public's Right to Know," Colorado Editor, November 1953, p. 4.

²"An Interim Report," op. cit. p. 4.

The major battles in the past have occurred in the more populous states. Where government officials lost the personal contact with their constituents because of a growing population, the temptations of secrecy and the ease with which the doors swung shut became too difficult to overcome in many cases.

Since the citizen engaged in his pursuit of wages had very little time to devote to governmental affairs, the news media quite properly undertook to prevent secrecy and the resultant abuse of power. Through national news organizations they have extended their activities on a national scale and thus have involved representatives from every state, including Kansas.

FREEDOM OF INFORMATION AND THE LAW

The Constitutional Base

You sit behind your table right now and think you have Freedom of the Press, guaranteed by the First Amendment to the Constitution of the United States --- 'Congress shall make no law abridging freedom of the press.'

The new Chief Justice of the United States Supreme Court will tell you that that does not in so many words guarantee you the right to report the news. That merely says 'that the Congress shall make no law abridging the freedom of the press.' It says nothing about your state legislature. It says nothing about the bureaucrats now ruling with an iron hand over the United States.¹

So spoke John E. Long, co-chairman of the FOI committee of the National Editorial Association at the fall meeting of the organization in 1953. His statement pointed up a very important question in the study of freedom of information; i. e., just how far does "freedom of the press" extend?

¹Freedom of Information Report Made, "The National Publisher, November 1953, p. 13.

The First Amendment to the United States Constitution declares that "Congress shall make no law . . . abridging the freedom . . . of the press. . . ." Section 11, Bill of Rights of the Kansas Constitution, likewise provides that "The liberty of the press shall be inviolate; and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such rights . . ."

"Freedom of the press" is guaranteed. But, how far does it go? Does it include the right of access to government records and proceedings?

Two Viewpoints: Unfortunately, no major court decisions were discovered, either in Federal or Kansas courts, answering the question. It has been fairly well established that freedom to write, to publish, and to circulate, is included in "freedom of the press."¹ But the right of a newspaper to gather such news has not been interpreted in the higher courts. According to Dr. Harold Cross, some of the lower courts gave credence to the "right of access":

Several -- and here is a stirring gain if higher courts agree -- have held in effect that freedom of the press bars interference not only with writing, printing and circulating the news, but also interference with access to public records and proceedings to gather the news.²

The United States Supreme Court has given only this broad and somewhat vague interpretation:

The predominant purpose of the grant of immunity here invoked was to preserve an untrammelled press as a vital source of public information. The newspapers, magazines and other journals of the country, it is safe to say, have shed and continue to shed, more light on the public and business affairs of the nation than any other instrumentality of publicity; and since informed public opinion is the most potent of all restraints upon

¹Justin Miller, Principles of Law Limiting Radio Broadcasting, p. 221.

²Cross, op. cit. p. 10.

misgovernment, the suppression or abridgment of the publicity afforded by a free press cannot be regarded otherwise than with grave concern.¹

The above statement could be interpreted as broadly or as narrowly as a person would wish. Mr. Cross, however, felt that:

The language of the Amendment is broad enough to embrace, if indeed it does not require, the inclusion of a right of access to information of government without which the freedom to print could be fettered into futility. The history of the struggle for freedom of speech and of the press bars any notion that the men of 1791 intended to provide for freedom to disseminate such information but to deny freedom to acquire it. Their purpose was to prevent "any action of government by means of which it might prevent such free and general discussion of public matters. . . ."²

John G. Stutz, Executive Director of the League of Kansas Municipalities, took the opposite point of view:

The United States and Kansas constitutional prohibitions on abridging the freedom of the press or restraining the liberty of the press, means the free right of publishing books, pamphlets or papers without previous restraint or censorship subject only to punishment for libelous, seditious or morally pernicious matters. They do not apply to the right of attendance at the conduct of public affairs for representatives of the press and radio.³

The Historical Approach. Neither of the arguments presented above satisfy the question. While both interpreted the words of the First Amendment, neither considered the conditions of government and the press that inspired these words.

The Constitution was ratified over the strong objections of those persons who believed in limited federal power. One of the leaders of this group was Patrick Henry. Thomas Jefferson, although not involved in the Constitutional struggle because he was in France at the time, was another strong supporter

¹Grosjean v. American Press Company, Inc., et al., 297 U. S. 233 (1936).

²Cross, op. cit. p. 131.

³Stutz, op. cit. p. 9

of "states rights".¹ At the first meeting of Congress following the adoption of the Constitution, the "states rights" interests rushed through the first ten amendments to place a check on national power.

The predominantly Republican² press of 1791 was one of the most effective weapons of the "states righters" in their fight against a strong national government. In the press was the means to gain and hold the support of the people, who were far removed in both distance and thought from federal government. To preserve this valuable weapon, "freedom of the press" was written into the constitution.

But how did the press of 1791 function in the popular movement? This description was given by Albert Beveridge in his Life of John Marshall:

These papers carried scarcely any news and the little they published was often weeks and sometimes months old, and as uncertain as it was stale. . . . "Newspaper paragraphs, unsupported by other testimony, are often contradictory and bewildering," wrote Washington of so big, important, and exciting news as the progress of Shay's Rebellion. . . .

But what this pygmy press lacked in information it made up in personal abuse. Denunciation of public men was the rule, scandal the fashion. Even the mild and patient Franklin was driven to bitter though witty protest. He called the press "The supreme Court of Judicature," which "may judge, sentence, and condemn to infamy, not only private individuals, but public bodies, &c. with or without inquiry or hearing, at the court's discretion." This "Spanish Court of Inquisition," asserts Franklin, works "in the dark" and so rapidly that "an honest, good Citizen may find himself suddenly and unexpectedly accus'd, and in the same Morning judg'd and condemn'd, and sentence pronounced against him, that he is a Rogue and a Villain."³

It is clear from the description above that the press of 1791 bore little resemblance to the press of 1954. Where the press of 1954 relies

¹Beveridge, op. cit. p. 286.

²In 1791 the Republican Party was a strong "localist" or "states rights" organization in opposition to the centralist Federalist Party.

³Beveridge, op. cit. p. 288.

heavily on the facts of governmental activity to keep readers informed, the press of 1791 concerned itself only with expounding a particular political or personal philosophy. It cared not a whit for the true state of affairs. The preferred popular reaction could only be obtained by a liberal use of imagination.

The truth could always be obtained by most newsmen, for they were usually sponsored by a prominent Republican or Federalist politician who knew all that transpired. The fact that so little truth or so few facts were used, indicates that the press had neither the desire nor the need for them. The editors were interested only in being able to print and distribute, without restraint from the Federalist administration, the political and personal philosophies with which the people were to be imbued. According to Blackstone, the common law authority of the day, "liberty of the press consists in laying no ~~previous~~ restraints upon publications. . . . Every freeman", he declared, "has an undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press. . . ."¹

Blackstone made no mention of the right of newsmen to gather facts, for such a practice was unheard of at the time; only the right to "lay what sentiments he pleases before the public."

The Modern Approach. It seems apparent that the framers of the First Amendment had no thought of securing for the press the right to freely enter government meetings and records. However, that is not to say that it should not be given that construction in 1954. The history of the Constitution has been one of continual change as conditions have changed in the United States.

¹Edward S. Corwin, The Constitution and What It Means Today, p. 156.

Justice Murphy, in writing the opinion of the Supreme Court in *American Power & Light Co. v. Securities and Exchange Commission* in 1946, declared that "... the federal commerce power is as broad as the economic needs of the nation."¹

It seems reasonable to assume that "freedom of the press" is as broad as the needs of the press to adequately report the affairs of government.²

Statutory and Common Law Doctrines

Since no firm legal doctrine relevant to freedom of information can be obtained from the Constitutions of the United States and Kansas, attention must be turned to the statutory and common law philosophies. Dr. Harold Cross, specialist in newspaper law, general council for the American Society of Newspaper Editors, and author of The People's Right to Know has been quoted extensively in this section; along with John G. Stutz, for 24 years Executive Director of The League of Kansas Municipalities, one time president and long time executive director of the American Municipal Association, and author of "Public Attendance at the Conduct of Public Affairs", which was prepared for publication in The Kansas Government Journal.

The Doctrine of Meetings. Stutz revealed his findings in regard to public attendance at meetings of governing bodies:

The meetings of representative legislative bodies are open to the public attendance by general rule. But, by law, public attendance at

¹*American Power & Light Co. v. Securities and Exchange Commission*, 329 U. S. 90 (1946).

²See "The Status of FOI in Kansas" below for an indication of the needs of the press.

such meetings is at the discretion of the representative body or executive officer except where a statute requires that action on certain public affairs be taken in "open meeting" or at a "public meeting". . . .¹

The laws and court decisions seem to follow the principles that the people's elected representatives are considered the best judges of how to conduct their respective public affairs - otherwise, we would not have elective representative systems of government. Instead, we would probably let each citizen dabble in government or not as suited his personal interest or other inclinations. . . .²

. . . official transactions of governing bodies, judicial bodies and administrative officers should be open insofar as possible to the private citizen's observations; provided, that such citizens conduct themselves in a manner which does not unnecessarily impede, interfere with, intrude upon or otherwise prevent the normal and proper functioning of the human beings who have been selected as the representatives of the sovereign to conduct its governmental affairs. . . .³

The laws and court decisions . . . appear to be those which would promote a responsible electorate with responsible representatives in the effective conduct of public affairs. While (they) . . . in no way set up the governmental representatives much less the sovereigns as untouchables, the simple rules of human working conditions and governmental procedures are assured in behalf of an effective government.⁴

Gross, writing from the newspaper standpoint, arrived at much the same doctrine.

There is no authoritative decision in the United States that meetings of municipal governing bodies in general may lawfully be held in secret even in the absence of any constitutional or statutory provision requiring open or public meetings. There is some authority and much reason for the proposition that meetings, at which binding action is taken, must be held in public.⁵

¹Statz, *op. cit.* p. 3.

²*Ibid.*, p. 9.

³*Ibid.*, p. 12.

⁴*Ibid.*, p. 8.

⁵Gross, *op. cit.* p. 190.

While it may be conceded that municipal governing bodies, except as restrained therefrom by statute, may meet in private to take official action, if good reason for that unusual course exists, there is no occasion for concession of a plenary right to do so. The old theory of secret deliberative action may be countered in respect of legislative and administrative action by the needs of modern society confronted by dynamic expansion in governmental expenditures and activities; it may also be countered by customs of long-standing and the "spirit" of our institutions and, at the municipal level, by the peculiar character of the state's political subdivisions, which is essentially that of municipal corporations composed of corporate electors possessing in that capacity special rights to be informed.¹

Dr. Gross found that the courts are prone to uphold the power of legislatures to legislate secrecy in administrative proceedings, records and other fields. However, the courts also tend to uphold those statutes which forbid such secrecy. The Supreme Court of Florida held:

. . . it is the spirit of our Constitution and statutes that the official meetings for the transaction of business by the Boards of County Commissioners and like boards in this State shall be publicly conducted at a known place in the county seat, and that while the members of such boards may meet in other places for the purpose of investigating matters under consideration and for the purpose of discussing matters which may come before such boards for disposition, when such boards assume to take official action involving public rights, that action must be taken in the county seat and in a place open to the public.²

The Supreme Court of Utah upheld a state statute prohibiting secrecy, reasoning that the purpose of the law was not that the public might know how the vote stood, but that they might know how the individual councilmen stood on each issue. Said the court, ". . . the public have a right to know just what public business is being considered, and by whom and to what extent it is discussed. . . ."³

¹Ibid., p. 191.

²Notes v. Putnam County, 143 Fla. 194 (1940).

³Acord v. Booth, 33 U. 279 (1908).

The courts, apparently, have not been inclined to play too great a part in the controversy. Their object has seemed to be to uphold the letter and spirit of legislative action.

Application to the Press. Stutz related his findings to the privileges of news media personnel in attending government meetings:

The privileges of the press table appear to be in the interests of complete and accurate reporting of the public affairs. Persons using these privileges are accorded no other advantages over any other spectator at the conduct of public affairs. The representatives of the press are expected to refrain from interfering with or from intruding upon the officers who are representing the whole public in the conduct of its affairs. . . .¹

Any special privileges for the members of the press . . . is a matter of custom and of discretion on the part of the responsible public officials in charge of such affairs. . . .²

The privileges of taking flash light pictures, installing radio mikes and of televising the conduct of public affairs are likewise at the discretion of the public officials in charge.³

The Doctrine of Government Records. The general theory of access to government records is expressed by Dr. Cross:

The general rule is that, in the absence of statute or common law to the contrary, all public records of municipalities, legislative and executive (and judicial), are open to public inspection.⁴ There are, however, numerous exceptions.

Such right of inspection is applicable in general only to such records as are public in the legal sense and not withheld from inspection by law. . . .⁵

¹Stutz, *op. cit.* p. 10.

²*Ibid.*, p. 9.

³*Ibid.*, p. 10.

⁴The same statement is made of the state government records. Cross, *op. cit.* p. 67.

⁵Cross, *op. cit.* p. 69

The records which are commonly open to inspection, according to Cross, are:

(1) records of statutes and decisions which make the law by which the people are governed and by which they are charged with notice in their conduct; (2) records relating to elections, fees and salaries, revenues and other official acts; (3) records relating to title to property; (4) records of judicial proceedings; and (5) many other records not readily classifiable under any of these headings, but which are of such a public nature that any members of a community may have a legitimate interest in them.¹

Mr. Stutz pointed out the difference between public and privileged records in saying that the personal working papers of the office holder attach to him when he leaves office, just as does his hat and coat. The "public records of elections, the final acts of the legislature and the governor and the decisions of the courts are a part of the public office as are the public office buildings and their furnishing and equipment."²

The courts of most states have long held the "interest theory" in determining whether access should be granted to a particular individual. Said a New York court:

I do not hold that these reports are open generally for inspection to the public, but only to such persons who establish a proper interest therein, and the bureau can undoubtedly formulate a procedure by which each applicant for inspection will be required to prove his interest and right of inspection and that permitted to proper cases only under reasonable regulation and control.³

The Michigan Supreme Court, although holding firmly to the "interest theory," nevertheless broadened its application:

¹Ibid., p. 65.

²Stutz, *op. cit.* p. 16

³People ex rel. Stenstrom v. Barnett, 226 N. Y. Sup. 338 (1927).

I do not think that any common law ever obtained in this free government that would deny to the people thereof the right of free access to and public inspection of public records. They have an interest always in such records, and I know of no law written or unwritten, that provides that, before an inspection or examination of a public record is made, the citizen who wishes to make it must show some special interest in such record.¹

Application to the Press. In most cases, the press seems to have the rights of an interested party in government records, no matter how strict the interpretation of "interest". "There is a preponderant weight of authority," said Dr. Cross, "that the newspaper by reason of the new function has a 'sufficient special interest' whenever such an interest is required. . . ."²

Doctrine of Court Proceedings. There was little controversy upon the basic principles of public attendance at trials. However, there were exceptions to the general rule that all trials should be open. Stutz voiced the general theory:

The constitutional guarantees of public trials (the Sixth Amendment of the federal constitution and the Tenth Bill of Rights in the Kansas Constitution) are presumed to provide: a. That citizens may be present so as to be able to perform their civil duties if and when needed in keeping the civil rights of their neighbors who may be parties to the issues in trial; b. That the partners in the electorate may exercise proprietary observance of the conduct of their representative officers of the court; and c. For the education of the citizenry in the proceedings of the court and the integrity of the court.³

Gross quoted Bishop, Hale and Blackstone to the effect that in common law all trials are in open court to which spectators are admitted.⁴ But Stutz

¹Burton v. Tuite, 78 Mich. 363 (1889).

²Gross, *op. cit.* p. 122.

³Stutz, *op. cit.* p. 2.

⁴Gross, *op. cit.* p. 155.

made the condition that physical facilities must be adequate in order to practically enforce the right of public trial.¹ In 1949 the United States Court of Appeals for the Third Circuit affirmed that principle. The court said that the Sixth amendment precludes the exclusion of anyone from a trial, except "those persons or classes of persons . . . whose particular exclusion is justified by lack of space or for reasons particularly applicable to them."²

Exceptions to the right of public attendance at trials were found in cases dealing with domestic relations, minors and morals.³ Many states have laws which forbid public trials when juvenals are involved or when the case deals with morals. Said Dr. Cross, ". . . some state courts . . . have held that in cases involving sexual offenses it is permissible, and not in violation of 'public trial' guarantees, to exclude the general public entirely from the courtroom. . . ."⁴

Application to the Press. No established precedent has been set in regard to the attendance of newspaper representatives in those cases where the general public was barred from a trial. However, the Criminal Division of the Municipal Court for the District of Columbia named the press as one of the four parties having a right to remain in court when there was a waiver by the defendant of the right to public trial.⁵

¹Stutz, *loc. cit.*

²U. S. v. Kobli, 172 F. 2d. 919 (3d Cir. 1949).

³Cross, *op. cit.* p. 164.

⁴*Ibid.*, p. 158.

⁵Dist. of Col. v. Williams, jr., Mun. Ct., D. C., Crim. Div., No. 102, 480, Fennell, J., April, 1950.

Summary of Statutory and Common law. The position of statutory and common law in relation to public access to governmental proceedings and records may be summed up as follows.

Meetings. Where definite action is taken by the governing body, the meeting must be open to the public and press, in the absence of statute to the contrary. All other meetings may be open or not according to the discretion of the governing body. Special privilege for the press is at the discretion of the officials.

Records. In the absence of statute to the contrary, government records are open to those who prove a definite interest in them. By virtue of the newsgathering capacity, the press is generally considered an "interested party". Personal papers of the official, however, may not be subjected to general public scrutiny.

Trials. All trials are open to the public, except in some cases where minors, morals or domestic relations are involved. This conception is limited by the physical limitations of the court room and the good behavior of the public. The position of the press in regard to non-public trials is not yet clear.

The conclusions above would be valid only as general principles. Practically, there was much variance among applications with different public officials. The amount of discretion given the public official appeared to be great in almost all cases.

It is interesting to note that the views expressed by Cross and Stutz are very close together. This is especially significant in view of the fact that Cross wrote from the standpoint of the press, while Stutz was writing as a representative of local government officials.

Kansas Statutes

Proposal No. 13 - Administrative Meetings and Hearings

The advisability of requiring state agencies, boards and commissions to admit the public and press to all meetings and hearings will be studied by the Legislative Council under Proposal No. 13, by Senator Brockover.

The growth of administrative agencies and their increasing jurisdiction over the lives and property of many individuals has increased the responsibilities of these agencies to the public. Moreover, there has been increasing delegations by the legislature to administrative agencies of sub-legislation in the power to make rules and regulations. According to the sponsor of the proposal, open meetings and hearings by policy forming state agencies would contribute greatly toward a better understanding of the agencies' objectives and responsibilities on the part of those individuals most affected, as well as the general public.
...

A further objective of the proposal is the establishment of procedures to afford the individual more adequate protection in the exercise of his rights of notice, hearings and appeals, in connection with the adoption of regulations by administrative agencies. . . .¹

"Proposal 13" was introduced to the Kansas Legislative Council at its May, 1953 meeting, by state Senator Sam Brockover of Eureka. The Federal, State and Local Government Committee of the Council was given the proposal for study and recommendation.

Before considering the desirability of such legislation, it is necessary to study the laws of Kansas as they exist in 1954. The consideration begins with those statutes affecting the state government.

Statutes Affecting Access at the State Government Level.²

The Legislature. In 1954 there was no statutory provision affecting public access to the meetings and records of the Kansas legislature. The

¹Kansas Legislative Council Progress Report, Publication No. 187, Kansas Legislative Council, May 1953, p. 3.

²Appendix "A" under "Access to State Proceedings and Records."

Kansas Constitution provides: ". . . Each house shall establish its own rules; . . ."¹ and from that the Senate and House of Representatives gained authority to use their own discretion in making legislative procedures and records open to the public and press. In practice, meetings of both houses were generally open to visitors. For open meetings, the statutes provided for extensive cooperation with representatives of the press. General Statutes of Kansas 1949, 46-120 declares:

It shall be the duty of the secretary of the Senate and of the chief clerk of the house of representatives to furnish carbon copies of the titles of bills, resolutions and petitions and carbon copies of such other legislative documents as may enter into the records to authorized reporters of bona fide newspapers, solely engaged in reporting the news of the legislature, upon the blanket approval of the request of said newspaper reporters by the president of the senate or the speaker of the house of representatives, as the case may be.

But, the authority still rests with the legislative branches to exclude the public and press at their discretion. The Senate makes use of this authority in Rule 21:

Secret Session. --- Any Senator may move to close the doors of the Senate chamber for the discussion of any business which in his opinion requires secrecy. If such motion shall be approved by a majority vote of the members present, the President shall direct the Sergeant at Arms to clear the chamber of all persons except members of the Senate, the President and Secretary. During the discussion the doors shall remain closed and every Senator and officer present shall keep secret all such matters and proceedings which are discussed while the doors are closed, except as may be ordered recorded in the journal.

Though no statute provides for public access to the records of the legislature or its committees, G. S. 1949, 46-116 specifies that at the close of each session, the journal of the Joint Committee on Claims and Accounts should be deposited with the Secretary of State, and there open

¹Kansas Constitution, Article 2, Section 8.

to public inspection.

Administrative Departments, Agencies, Commissions and Boards. Only one agency was found to be required by statute to hold meetings with open doors. The Board of Civil Service meetings "shall be open to the public . . ."¹ The other agencies hold open meetings or not, as they choose, under statutory provision to "adopt such rules and regulations as it may deem necessary to govern its own procedures."²

The situation, however, was found to be different in regard to statutes affecting access to records. Dr. Harold Cross listed Kansas as one of the "specific statute states," in which there are a large number of statutes providing access.³ This was nowhere more apparent than in the laws affecting state administrative and regulatory agencies. Thirty-five different statutes were found providing for public inspection of the records of state offices and commissions, and there were 12 specific laws which deny public inspection.

A typical example of legislation requiring certain state records to be open, is G. S. 1949, 74-1504:

. . .The board (of Examiners in Optometry) shall preserve an accurate record of all meetings and proceedings of the board including receipts and disbursements with vouchers therefor and complete minutes of all prosecutions and violations of this act and of examination held under the provisions hereof and an accurate inventory of all property of the board; that all such records shall be kept in the office of the board and made accessible to the public. . . .

Many of the statutes add the stipulation that accessibility should be

¹General Statutes of Kansas 1949, Section 75-2928.

²Ibid., 74-2605.

³Cross, op. cit. p. 50.

subject to "such reasonable rules and regulations as the commission may prescribe."¹

Kansas has provision for public access to one of the most controversial fields of public records, that of vital statistics. The 1951 Supplement to General Statutes of Kansas 1949, 65-2422, under the Uniform Vital Statistics Act, states, ". . . The records and files of the division of vital statistics are open to inspection, subject to the provisions of this act and regulations of the board . . .", but, "Disclosure of illegitimacy of birth or of information from which it can be ascertained, may be only upon order of a court in a case where such information is necessary for the determination of personal or property rights and then only for such purpose."

Perhaps one of the most valuable laws requiring public inspection, is that concerning the Secretary of State. The law states, "Papers, records and documents in the office of the secretary of state shall not be permitted to be taken from his office, or from his possession or that of his clerks; but certified copies shall in all cases be given when required."²

Other important agencies for which public inspection of certain records is required include the State Hotel and Restaurant Board, the Court of Industrial Relations, the Highway Commission, the State Emergency Fund Board, Kansas Real Estate Commission, and the Civil Service Board.³

Public inspection is denied by statute in many cases. One of the most outstanding examples concerns Income Tax Records. The law provides in part:

¹Id., 74-4204

²Id., 75-402.

³Id., 36-304, 44-604, 74-2012, 74-4102, 74-4204, 75-2922.

. . . (b) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the director, any deputy, agent, clerk or other officer or employee (of the Commission of Revenue and Taxation) to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report or return required under this act. . .¹

Access to hearings of State Regulatory Agencies (and local governing bodies) was not considered fully in this report. Hearings are of two types, public and private. In the case of public hearings, which are held to hear objections or receive testimony on a proposed action of the particular agency, general public attendance is required by statute, along with adequate notice in a newspaper of general circulation. In the case of private hearings, usually involving malpractice of an individual under regulation of the agency concerned, interested parties are required to be notified of the time and place. General public attendance is usually left to the discretion of the regulating body.²

Statutes Affecting Access at the County Government level? According to law, county government is the most open of all Kansas governmental levels. General Statutes 1949, 19-218 provides:

Every board of county commissioners shall have a seal, and may alter the same at pleasure. They shall sit with open doors, and all persons conducting themselves in an orderly manner may attend their meetings; and they may establish rules and regulations to govern the transaction of their business.

In addition, 19-2601 requires:

Every county officer shall keep his office at the seat of justice of his county, and in the office provided by the county . . . and they

¹Ibid., 79-3234.

²Appendix "A" under "Examples of Public Hearings from General Statutes 1949."

³Appendix "A" under "Access to County Proceedings and Records."

shall each keep the same open during the usual business hours of each day (Sunday excepted); and all books and papers required to be in their offices shall be open for the examination of any person; and if any of said officers shall neglect to comply with the provisions of this section, he shall forfeit, for each day he so neglects, the sum of five dollars; . . .

By these two statutes, all meetings of the Boards of County Commissioners are open to the public, and all county records, except those prohibited by other laws, are open to inspection. In practice, as it will be shown below, 19-218 does not prevent county commissioners from holding executive sessions. No other statute provides access to county meetings, but there are 15 other laws requiring that certain county records be kept open for public inspection. Only two laws require confidential records. Intangible tax records must be kept secret, along with certain social welfare records.

The Social Welfare Act. At its 1953 session the Kansas Legislature passed the Social Welfare Act, which among other things, provides for a public record of welfare recipients. The law provides for two kinds of welfare files, the public file and confidential file. The confidential file contains the case histories and confidential personal or family data, while the public file contains "approval and financial" data. Specifically:

. . . The county (welfare) board shall on or before the twenty-eighth day of each month file with the county clerk one copy of the public file showing the names and addresses of all recipients receiving payment under this act, together with the amounts paid to each during the preceding month, and shall retain one copy in the county welfare office. The reports so filed with the county clerk and the copy retained by the county welfare office shall be bound in record books provided for that purpose, which said books and all reports contained therein shall be and the same are declared to be public records and shall be open to public inspection at all times during the regular office hours. . . .¹

¹Laws of Kansas, 1953 Session, Chapter 221, Section (f).

The confidential file is accessible only to the county board, their officers and employees, the state board and private agencies.

Abstract Records and the Kansas Supreme Court. General Statutes 1949, 19-2601 was interpreted by the Kansas Supreme Court on two separate occasions. In 1887, A. R. Cormack, an abstractor in Russell County, attempted to copy the records in the office of the county Register of Deeds, Nelson Wolcott. Permission was refused. The controversy reached the Supreme Court in *Cormack v. Wolcott*.¹ Cormack claimed that under the law, Section 211, (172) chapter 25, Compiled Laws of 1885;²

. . . the records in the office of the register of deeds are public records, which every person has a right to inspect, examine, and copy, at all reasonable times, and in a proper way; that the register cannot deny access to his office or books for such purpose, to any person coming there at a proper time, and in an orderly manner; and that the register must transact the business of the office, and allow persons reasonable facilities to exercise this right in that office."³

Wolcott contended that the statutory right was limited to some extent by the reason for which access was requested; and that in this case

. . . where the benefit of the plaintiff, for no public use or purpose, and not for the purpose of an examination of any title or interest of the plaintiff therein . . . but solely for the purpose of selling said information to others for compensation and speculation, the privilege will not be granted.⁴

The court decided in favor of the Register of Deeds. In the opinion, Justice Clogston reasoned:

¹*Cormack v. Wolcott*, 37 Kan. 391 (1887).

²G. S. 1949, 19-2601.

³*Cormack v. Wolcott*, loc. cit.

⁴loc. cit.

. . . the right to inspect must of necessity have some restrictions, and must be exercised under such rules as the register may fairly impose, that will tend to the safety and preservation of his trust. The right claimed by the plaintiff for himself and for every person to inspect the records at will and make copies therefrom, must of equal necessity be governed. If this right exists, it exists for all. . . . In large and populous counties the demand for the right to make abstracts would be great, and much time consumed in their making, and instead of having an office where the records were to be kept for public inspection, it would be converted largely into an office for private individuals — for private and not for public use; and if this right is granted, then would it be denied in any other department of county or state government? The records would be free to be inspected and copied for any and all purposes; for when the right is conceded for private use or inspection, then it is conceded to be equally open for him who examines for idle curiosity or unlawful purposes. If you grant this right to one citizen, you must grant it to another. No distinction can be made between the good citizen and the bad; both must have the same facilities and the same right, independent of the purpose for which the information is sought....

Our statute nowhere intends to give the right to permit the taking the copies of the records. The language is to "make an examination". That examination was intended for persons who desire information that can be readily gained by personal inspection of the records. The duty of granting this right is imposed upon the register, but it was never intended that the inspection would give the right to make entire copies of the records, and consume his time in watching and protecting the records during the time required to take an abstract of the titles of land in any county. . . . The statute provides how copies of all records may be obtained, and prescribed fees to the various officers for furnishing such copies. Those desiring to engage in the abstract business can procure the information or copies as the law provides¹

One year later a similar case came up in Wyandotte County, reaching the Supreme Court in *Boylan v. Warren*.² The decision, in this instance, was for the abstractor. Justice Valentine gave the opinion of the court:

. . . they cite the decision of this court made in the case of *Cornack v. Wolcott*, as authority for such claim. We think they misinterpret that decision. All that was decided in that case is as follows:

¹*Id. cit.*

²*Boylan v. Warren*, 39 Kan. 301 (1888).

The register of deeds will not be compelled by mandamus to permit any person to make copies of the entire records in his office, for the purpose of making a set of abstract books for private use or speculation; and not such right is given by section 211, (172) chapter 25, Compiled laws of 1885.

We think that case was decided correctly, but it does not apply to the three cases now under consideration.

. . . it might be decided or admitted that in all cases where a person wishes to examine the records of a public office, whatever that office may be, whether the register's office, the district clerk's office, or any other office, unless he has a present and existing interest of a pecuniary character in the information to be obtained from such records, he has no right of action of any kind, mandamus, injunction, for damages, or other action, although the officer in charge may utterly refuse to let him even see the records. And it may also be admitted that no person has any absolute right to examine the records except during office hours, and during a time when the records are not in the rightful or proper use of any other person. The refusal of the officer in charge to permit a person to gratify a mere idle curiosity, or to examine the records for the mere purpose of taking copies or memoranda thereof for some supposed possible use in the future, or to examine the records when they are otherwise rightfully and properly in use by some other person, cannot constitute a basis for any kind of action.

In the opinion of this court, the statute last above quoted (25-15, 172, 1885) means just what it says. "All books and papers" required to be kept in any public county office must be kept "open for the examination of ANY PERSON," who ever that person may be, provided he has some or any present and existing interest to be subserved by the examination; and it can make no difference whether such interest be great or small, or whether he is interested as a principal or as an agent, or as an attorney or as a client; he has a right to examine such books and papers to the extent of his interest. . . .

It makes no difference . . . what has been decided in other states with respect to the questions which we now have under consideration, for the statute in this state governs and controls. Its language is plain, and needs no interpretation. All may understand it who will read it. Under its provisions "all books and papers," without any exception, must be kept open for inspection and examination, and "any person," without any exception, has the right to examine and inspect them. There may be, and indeed are, exceptions arising from the nature of the things to be performed and from conflicting rights and interests, but there are none within the terms of the statute. . . . Any agent, as well as a principal, may often, though not always, be a party beneficially interested. And where an agent has a beneficial interest in a thing, if such an interest is enforceable at all by mandamus, he may enforce his interest by mandamus. . . . Before closing this opinion, it would perhaps be proper to state that "any person," even as abstracter

of titles, who may have sufficient interest in the information to be obtained from the public county records to entitle him to an examination of the same, may, if he chooses, make copies, abstracts, extracts or memoranda therefrom. There is no statute and no good reason against it.¹

The cases establish a reliable rule of law that can be applied to General Statutes 1949, 19-2661. All records of any public county office may be subject to the examination of any person who has a present and existing interest in such records, providing that examination is requested during reasonable business hours. The rights exist whether the interest is great or small, or whether the person is examining on his own or as the agent of another person.

The last part of the opinion in *Boylan v. Warren* which establishes that abstracters may make copies of county records, was substantiated by statute in 1941. The law provides:

For the purpose of operating such licensee's business of abstracting and the compiling, posting, and keeping up of abstract books necessary for the proper conduct of said business such licensee shall have free access to the county records of the several county offices, under the direct supervision of the county officers having the legal custody of said records and while using said county records the said licensee shall be under the same obligations to protect and carefully keep and preserve said records as the several county officers who have the legal custody thereof, and subject to the same penalties for a violation of such as said officer would be.²

The statute combined the arguments of both Supreme Court decisions. While it affirmed the latter case in that the abstractor should have access to the records, it also recognized the argument in the former by providing that each abstractor should be responsible for the safety and preservation

¹Id. cit.

²G. S. 1949, 67-804.

of the records.

Statutes affecting Access at the City Government Level.¹ All city government bodies must meet with open doors when any ordinance is passed. That is required by General Statutes 1949, 13-1421, which provides for cities of the first class: "All ordinances of the city shall be read and considered by sections at a public meeting of the council, and the vote on their final passage shall be taken by yeas and nays, which shall be entered on the journal by the clerk; . . ." Similar wording is used for cities of the second and third class by other statutes.²

Even greater openness is required of Commission-City Manager cities. The law makes it mandatory that "Regular or special meetings shall always be open to the public."³ Neither of these laws, however, excludes the city governing body from holding a closed meeting. This statement is supported by a decision of the Kansas Supreme Court which, though having been handed down in 1912, still rules. In *State of Kansas v. F. J. Lander*⁴, Justice West wrote:

By reason of local gossip, caused largely by newspaper publicity, a council meeting at Runnells (Kansas) soon came to be regarded as the chief attraction and amusement, and people would even come in from the country to attend, the result being an unseemly and disorderly gathering with but little accomplished except the entertainment of the assembled crowd. . . .

While it is proper to have open meetings which the public may attend, it is not proper to conduct such meetings for the purpose of

¹Appendix "A" under "Access to Municipal Proceedings and Records."

²G. S. 1949, 14-106, 15-108.

³*Ibid.*, 12-1009.

⁴*Kansas v. Lander*, 87 Kan. 474 (1912).

providing entertainment and amusement, and it may be necessary for the mayor and council to hold executive sessions from which bystanders are excluded to the end that orderly proceedings and administration of the city's affairs may be had.¹

Though the statute requiring open commission meetings in all City Manager cities with the commission form of government was passed many years after the controlling Supreme Court opinion, the Legislature made no special provision prohibiting executive sessions in such cities, as was done in other cases.² The rule, then, would probably hold in any modern litigation involving Commission-City Manager Cities, as well as in other types of city government. As for records, only those concerning city finance must be open by law.³

Statutes Affecting Access at the Township Level.⁴ All township government is open to the public, according to statute. General Statutes 1949, 80-503 declares that: "The records and other books of the township clerk and treasurer shall always be open for public inspection;" while G. S. 1951 Supp., 80-2305 requires that board meetings be open.

Statutes Affecting Access in Special Districts.⁵ The governing bodies of four special districts must open the doors of every meeting. They are Watershed Districts, Water Supply Districts, Drainage Districts, and Irrigation Districts.⁶ In addition both the Watershed and Drainage District boards are prohibited by statute from holding executive sessions. The Watershed District Act of 1953 provides in part that such sessions are prohibited: "Each meeting

¹Loc. cit.

²G. S. 1949, 24-416; Session Laws 1953, Chap. 477, Art. 3, Sect. 12.

³G. S. 1949, 10-1117, 13-1438.

⁴Appendix "A" under "Access to Township Proceedings and Records."

⁵Appendix "A" under "Access to Special District Proceedings and Records."

⁶Session Laws 1953, Chap. 477, Art. 3, Sect. 12; G. S. 1951 Supp., 19-3520; G. S. 1949, 24-416; G. S. 1949, 42-708.

of the board, whether regular or special, shall be open to the public and the board shall at no time go into executive session."¹

Irrigation District boards and Water District boards must allow public inspection of their records. "All of the transaction and proceedings of the board shall be entered in writing by the secretary in a journal . . . which journal shall at all times be open for inspection by all electors of the district."²

Statutes Affecting Access in the School Boards.³ There is no statutory requirement that any school board in Kansas should sit with open doors. School records, however, are generally open. School board records of cities of the first and second class are open by virtue of G. S. 1949, 72-1021, while 72-2534 does the same for Community High School Districts.

Statutes Affecting Access in the Courts.⁴ There are 11 laws which effect access to court records. Five of them legislate certain records open. The most sweeping is G. S. 1949, 60-3321:

Judges of the probate courts, justices of the peace and other judicial officers and tribunals exercising judicial function, having no clerk, and the clerks of every court of record shall, upon request, and being paid the lawful fees therefor, furnish authenticated transcripts of the records and papers in their custody to any person demanding the same.

Other statutes specify that records of the Probate Court (with the exception of adoption proceedings) and records of police courts should be

¹Session Laws 1953, loc. cit.

²G. S. 1949, 42-708.

³Appendix "A" under "Access to School District Records."

⁴Appendix "A" under "Access to Court Proceedings and Records."

open for inspection. On the prohibitory side are records of adoption proceedings, all proceedings in domestic relations, except marriage licenses and applications, and grand jury proceedings and records.

No legislation specifically prohibits public attendance at either adoption or domestic relation proceedings. In view of the restriction on access to records, however, it is conceivably within the discretion of the court to restrict attendance.

Summary of Kansas Statutory Provisions. The most outstanding feature of Kansas laws affecting access to government proceedings and records is the extreme variety. An examination of Appendix "A" reveals nearly as many different wordings as statutes. The degree of freedom or secrecy varies a great deal also. This, of course, is the natural result of a multi-statute program.

County government, by statute at least, is the most open, with laws and court decisions covering meetings and records. City government is next in line. Financial records are open for inspection, and all ordinances passed by the council or commission must be in open session. The "water" districts are open in varying degrees, both as to meetings and records. But School boards are affected "freedomwise" only in regard to records. The state government is by far the most secret of all Kansas government, even though 35 different statutes require public inspection of records. Only the Civil Service Board has a mandate for public meetings, and the 35 public inspection laws cover less than half of the state administrative and regulatory agencies.

Thus saith the law. However, many times practice is at variance with statute. The next section is devoted to the practices of freedom of

information on the various levels of Kansas government.

THE STATUS OF FOI IN KANSAS

Though it cannot be stated flatly that meetings of the governing bodies of governmental units must be open to the public, as a qualification for a legal meeting, the tradition of this country is that such meetings should be open to the public when the citizens present conduct themselves in an orderly manner. . . . In consequence of the tradition, public galleries are provided in the United States Senate, in the House of Representatives, and in the legislative halls of the various states, and accommodations for the public are provided in the court room of the Supreme Court of the United States, in the supreme court rooms and other court rooms of the states, (but conferences of the judges are held in secret) in the meeting rooms of boards of County Commissioners, governing bodies of cities, school boards and the governing bodies of other governmental units. Representatives of the press often attend the meetings of many governing bodies and report the actions taken in the newspapers and other periodicals. . . . It is thus seen that by tradition and practice, meetings of the governing units are generally open to the public. . . .

There is also the tradition and practice that certain matters should be discussed by the governing body in secret. . . .¹

The above statement by the League of Kansas Municipalities, gives a general, and rather optimistic view of the conditions of freedom of information in local and state government. What it means can only be determined by an examination in detail of conditions at the various government levels.

At The State Level

The Legislature. "We believe executive or secret sessions by the Kansas Senate or any other governmental body are inconsistent with 'The People's Right to Know'. The actions and votes of all public officials should be a public record." The Associated Press newspaper gathering in

¹L. W. Chesney, School Board Handbook, League of Kansas Municipalities, section 402.

the spring of 1953, adopted the preceding resolution as a protest against the much discussed secret sessions of the Kansas Senate. The Senate traditionally closes its doors when discussing confirmation of an appointment by the governor.

Senate Rule 21, under which executive sessions are authorized¹ provides that the Senate may close its doors upon vote of a majority of the body. The organ can institute contempt of Senate action against violators.

At a meeting of the Federal, State and Local Government Committee of the Kansas Legislative Council, held November 11, 1953, to hear testimony from a group of Kansas newsmen on "Proposal 13," A. I. Shultz, capitol reporter for the Topeka State Journal, described an incident in which Senate Rule 21 was violated:

I remember one time when Henry Allen was governor, "Clug" got thrown in jail here. He was with the old Kansas City Journal-Post. . . . They (the Senate) rejected . . . three or four guys for some appointments and "Clug" hid behind a desk in the secretary's office there. (A Senator) . . . happened to see him along about three or four o'clock in the morning (they were in executive session all night and part of the next day), called their attention to it. They called the Sergeant-at-Arms (who) took "Clug" upstairs, locked him up and kept him there till about 5 o'clock in the afternoon, while we were sitting down sampling some of the best national prohibition whisky they had around the legislature²

With the exception of the executive session, the Senate extends co-operation to the press, as evidenced by G. S. 1949, 46-120 by which the Senate and the House of Representatives are required to provide carbon copies of legislative material for bona fide press representatives. In addition, the

¹Above under "Statutes Affecting Access at the State Government level."

²Hearing, Federal, State and Local Government Committee, Kansas Legislative Council, Topeka, November 11, 1953.

Senate's rule 60 authorizes newspaper reporters to occupy seats at the press table in the Senate chamber provided that they conduct themselves with proper decorum.

State Administrative and Regulatory Bodies.¹ In the fall of 1953, all of the administrative and regulatory bodies of Kansas were questioned by Dr. F. H. Guild, Director of the Research Department, Kansas Legislative Council, as to their practices in admitting the public and the press to meetings and hearings. Replies were received by Dr. Guild for 61 of them.

Thirty-six of the 61, over 50 per cent, indicated that all of their meetings were open to the public and the press. Ray R. McKinley, Chief Clerk of the Motor Carrier Division, State Corporation Commission declared: "The Port of Entry Board meetings are open to any citizen, any representative of the press or any interested party."² Roy Freeland, Secretary of the Kansas State Board of Agriculture reported that "The custom has been to welcome the press or any other who might desire to attend part or all of any hearing or meeting."³

Paul R. Shanahan, Secretary of State replied:

. . . it is the policy that all meetings are open to the press or the public generally. . . . The committees or commissions with which we are primarily active and meet frequently are: The Executive Council, The School Fund Commission, the Charter Board, and the State Canvassing Board.⁴

¹Appendix "B" under "State Agency Questionnaire."

²Ray R. McKinley, letter to Dr. F. H. Guild, December 9, 1953.

³Roy Freeland, letter to Guild, December 12, 1953.

⁴Paul R. Shanahan, letter to Guild, December 10, 1953.

Ten organizations stated that there had never been a request from either the public or the press to attend one of their meetings, although they indicated that if such request were made, attendance would be welcome. John Schrepel, Secretary of the Board of Pharmacy, put it this way: "You are advised that this question has not arisen. . . . The meetings are not closed but the public and the press just don't attend. . . . However, they definitely are not excluded."¹ The same point was put sharply by Marvin Wallace, Secretary Treasurer of the Abstracters' Board of Examiners: "The press does not pay us the least bit of heed."²

Four agencies answered that there had never been occasion to hold either a meeting or a hearing.³

Replies indicated that 21 state agencies hold closed meetings or executive sessions. These secret sessions fall into four categories. (1) Meetings dealing with personnel matters coming within the jurisdiction of the agency; (2) Hearings at which investigation of the fitness of a person licensed under the agency is conducted; (3) Decisions on testimony presented at a public hearing; (4) Certain meetings concerning criminal activities.

The State Board of Education has, on certain personnel matters, excluded the public and press from its meetings.⁴ George Mack, representing the Topeka Daily Capital at the November 11, 1953, hearing of the Federal,

¹John Schrepel, letter to Guild, December 16, 1953.

²Marvin W. Wallace, memorandum to Guild, undated 1953.

³George Robb, State Auditor, letter to Guild, December 8, 1953; Glyde Latchem, State Fire Marshall, letter to Guild, December 11, 1953; Ferd Volland, Jr., State Printer, letter to Guild, December 9, 1953; John A. Brown, State Architect, letter to Guild, December 8, 1953.

⁴Adel F. Throckmorton, letter to Guild, December 7, 1953.

State and Local Government Committee, Kansas Legislative Council, told of an experience in that regard:

I went over there (to a meeting of the Board of Education) with the full purpose of staying through thick and thin. When I arrived at this meeting. . . they were holding an executive session. I immediately knocked on the door and said, "What are you attempting to keep from us?" The chairman, within a few minutes, opened the door and said, "We were merely having a family discussion of an applicant for Mr. Miller's position." A (Topeka State) Journal reporter and I covered the meeting for another hour or two. An applicant for Mr. Miller's position came in and we were asked to leave. I said, "Why should we leave?" and protested the leaving. It turned out, however, that the applicant for the position . . . said he felt he could talk more freely in stating his qualification in the absence of the press. . . .

Well, it happened that . . . the chairman of the board had already released the name of this man, so I didn't see where anymore harm could come to him. . . . I wasn't there with the idea of building this man up or tearing him down. . . . But I went over there with the idea that I would be pretty hard to toss out of a public meeting.¹

Hubert Brighton, Secretary of the Kansas Board of Regents, explained the necessity of holding closed meetings when such personnel matters arise.

Our procedure at meetings is to have hearings concerning matters on our agenda and then go into executive session. It has been our policy not to have outsiders present during the executive session of the board. A lot of the matters that we discuss in executive session are more or less of a personal nature and must be treated as confidential.

For example, in our discussion of the hiring of a president or a dean. Perhaps he doesn't want the authorities at his institution where he is currently employed to know that we are considering him for a position at one of our schools. Should word get out that we are considering a person for a position as president, dean, professor or coach, it might be embarrassing to him for his superiors or friends to know that he was considered for a job and didn't get it.²

Lester M. Goodell, attorney for the Kansas Dental Board, felt the need for holding closed meetings to deal with a complaint". . . when in its

¹Hearing, *loc. cit.*

²Hubert Brighton, letter to Guild, December 24, 1953.

preliminary stages it could not be determined whether the complaint has merit; or until the investigation had been completed, whenever publicity would interfere with carrying on a full investigation.¹

A number of agencies take testimony in public, on a supposed violation of agency regulations or statute, and decide the case in executive session. R. I. Nicholson, Secretary of the Alcoholic Beverage Control Board of Review, reported:

The only time during meetings of the Board when everyone is excluded is during the time the Board goes into executive session at the conclusion of the hearing to formulate their decision. I might also add that a decision is rendered immediately following the conclusion of any hearing on an appeal matter.²

The fourth category of closed meetings concerns the Attorney General's office, the Kansas Bureau of Investigation and the Kansas Highway Patrol. Attorney General Fatzner explained the need for secrecy:

This office has always considered the reports of the Bureau (Kansas Bureau of Investigation) to be confidential and privileged and therefore not available to the public, the press or any other person unless the privilege of their confidential character is waived by the Attorney General. It would hamper the efforts and operations of this fine organization if its investigations, interviews and conferences were made public prior to the time elected for such purpose by the Attorney General.

With respect to the Attorney General's office, outstanding press members of the state interview the Attorney General twice daily concerning opinions which are written by (this office), and conferences held in this office and it has always been my policy to give to the press a full account of these conferences and copies of the opinion when requested. Naturally, there may be times when conferences are held relating to law enforcement problems which the press and the public may not attend. The fact that such conferences are held is reported to the press, but for a better administration of justice, it has always been

¹Leater M. Goodell, letter to Guild, December 23, 1953.

²R. I. Nicholson, letter to Guild, December 11, 1953

the policy of this office to not permit the press to attend.¹

Fatzer pointed out that on April 18, 1952, his office was commended by the Freedom of Information Committee of the American Society of Newspaper Editors for its policy in making information available to the public and the press.

The Kansas Highway Patrol followed much the same policy. However, High Edwards, Superintendent of the Patrol, reported that his practice was to keep the press informed of all developments in various confidential cases, and request them to hold such information until the investigation was finished.²

There were six administrative organizations reporting that all meetings and hearings were closed to the public and press. In each case, the practice was required by statute. Said Elmer Beck, State Bank Commissioner, "Since Section 100 of the Kansas Banking Laws³ prohibits divulgent of any information respecting the State Banking Department, our hearings and related meetings are never open to anyone except such persons as are directly connected with the meeting."⁴

Thirty-five replies indicated no formal means was used to notify the general public of coming meetings. In the words of Fred Gulick, Secretary of the Interstate Cooperation Commission, Motor Vehicle Reciprocity Commission, "No formal public notice is given meetings of the Commission although

¹Harold R. Fatzer, letter to Guild, December 7, 1953.

²High F. Edwards, letter to Guild, December 7, 1953.

³C. S. 1949, 9-1712.

⁴Elmer T. Beck, letter to Guild, December 8, 1953.

numerous times the newspapers have carried stories about meetings to be held."¹ Nine agencies declared, however, that general notification through newspapers was practiced.

At the conclusion of the Legislative Council hearing of November 11, 1953, State Senator Potueak asked the gathered news representatives whether they were able to attend most meetings of state agencies. He was answered by George Mack of the Topeka Capital, Jake Lawson of the Topeka Associated Press Bureau, and Alvin McCoy, Kansas Editor of the Kansas City Star.

Potueak: Are you acceptable to the meetings, generally; or are you generally brushed off?

Mack: I would say 99 per cent of the time we are acceptable.

Lawson: But 99 per cent of the time we are not acceptable when there is news.

McCoy: We are not acceptable when there is news in which the public is interested.²

At the County Level³

Executive Sessions.⁴ In reply to the County Government Questionnaire of February 6, 1954, 19 of the 48 returning county clerks acknowledged that executive sessions were held by the board of county commissioners. Several of the counties explained that the executive meetings were held only when the commissioners sit as the County Welfare Board. Although there were no

¹Fred Gulick, letter to Guild, December 7, 1953.

²Hearing, log. sit.

³Appendix "B" under "County Government Questionnaire."

⁴County Government Questionnaire, questions 5 & 6; Newspaper Questionnaire, questions 9b & 10b.

accurate figures to explain the secret sessions, it is probable that many of the counties hold them only in that capacity.

Forty-five county boards admit the public and press to all regular meetings and 26 disclaimed ever holding a secret meeting. The comment of C. G. Robinson, Stevens County Clerk, was typical in this respect:

The press is urged to attend all meetings of any kind in this county. I personally feel that the people know too little about their government on all levels. I have been quoted in our paper that all records in Stevens County Courthouse are open for the inspection of anyone interested. The building and its contents are owned by the people.¹

In comparison to the county clerk replies, nine of 86 replies to the Newspaper Questionnaire of January 26, 1954, reported exclusion from executive sessions at the county level. Five papers said that they had been unable to attend regular meetings. Apparently the incidence of executive sessions increases with the size of the county, or the publication frequency of the newspaper. Daily newspapers made five of the 9 complaints of executive sessions, with only 19 returning. Weekly papers, on the other hand made only four complaints with 65 reporting. This is further corroborated by the County Government Questionnaire. Of those in which daily newspapers are located, one half said that secret meetings were held. This is probably explained by the fact that dailies are more active and furnish more of an occasion for executive sessions, and dailies are located in the larger counties where more business is transacted.

¹This quotation, and all succeeding quotations from county, city, school, newspaper, or radio representatives named in the text, were obtained from the undated replies to the questionnaires, and are on file with the author. Exceptions will be noted.

Continuous Sessions. The Fort Scott Tribune reported an unusual situation:

Our big difficulty at the present time is a situation that has existed for some years in connection with the manner in which the county commissioners conduct their business. While the three commissioners have two days each week which are designated as meeting days, their meetings are so casual that there is never a formal convening of the commissioners in session, or an adjournment. The board members conduct business at any time during the day they happen to get together. . . . Most of their business never gets on record. The county clerk does not attend the meetings to record proceedings as required by law. After each meeting one of the commissioners tells the clerk what to write for the minutes, and that report is presented at the following meeting for signature by the commissioners. The board is controlled by two Democratic members who make all decisions and generally ignore the minority Republican members. Many of their decisions are made outside of meetings so there is no formal discussion in regular meetings. Many of the important acts by the county board are discovered by the newspaper reporter only after the action has taken place and reported in minutes. But much of the county business is never reported in the minutes.¹

Dick Cavitt of Radio Station KFB in Wichita declared, "County Commissioners of Sedgwick County do not hold formally scheduled meetings, and have never been known to give advance notice of a session." But a statement came from A. H. Ahrens, Reno County Clerk, that may explain the above cases:

In Reno County our Board of County Commissioners is in continuous session, and the reporters visit them daily. Sometimes the reporters hear discussions when decisions are made; other times they might discuss some item with the commissioners, but might not be present when the final decision is made. . . .

. . . the commission does not have any set time to make decisions. They have, at all times, a number of matters under discussion, and after they feel all the available information has been received pertinent to making a final decision, they pass their resolution irrespective of the time of day or the day of the working week.²

¹C. W. Marble, Newspaper Questionnaire, 1954.

²A. H. Ahrens, letter to the author, March 12, 1954.

Broadcasting and/or Telecasting.¹ The County Clerks were asked whether they allow commission meetings to be broadcast or telecast. In those counties where radio or television stations are located, only one replied that broadcasting is actually practiced. Two indicated that it was prohibited. Six answered that no request had been made for doing so. Four radio stations revealed that there had been no prohibition placed against them for broadcasting county commission meetings, while three said that the privilege was denied. The three TV stations which replied to the Radio Television Questionnaire of January 28, 1954, withheld comment on the question.

Notice of Meetings.² A necessary requisite to attending a meeting of the board of county commissioners, is the knowledge that the meeting is to be held. Eleven of the 42 reporting counties provide formal notice to the press for each commission meeting. Thirty-five said that no such notice was given. It was pointed out by several county clerks that meetings are regularly held at a specified time each week, that the date and place of meeting was common knowledge, and therefore notice was not necessary.

To news media representatives, the question was put, "Are there frequent instances of your being unable to cover a meeting because of inadequate notice?" Of the combined total of 99 replies to news media questionnaires, 24 indicated that lack of notice caused them to miss meetings at the county level.

The major spots of difficulty along this line are those counties in the

¹County Questionnaire, question 9; Radio Television Questionnaire, question 11.

²County Questionnaire, question 13; Newspaper Questionnaire, question 15.

high population bracket. Where a great many special meetings are necessary, notice becomes a problem with the news media. Stuart Aubrey, Editor of the Garden City Telegram, reported that notice of special county commission meetings had been a problem. But, "After conferences with . . . (the) board, we now are receiving special notices of special meetings."

Access to County Records.¹ Eighteen of the 86 reporting newspapers expressed difficulty in gaining access to county records. As in the case of executive sessions, the incidence increased with the size of the county. Exactly one half of the complaints came from daily newspapers. The press, however, has more freedom than the public in this respect. Twenty-two newspapers reported that although they were allowed to examine certain confidential records, they had to withhold such information from the public.

The counties admitted to a far greater proportion of confidential records than the news representatives found. Thirty-one county clerks revealed that certain county records are given a privileged status. Ten professed completely open records,² while seven abstained from comment. Most frequent examples cited of privileged records were intangible tax records, certain welfare records, and certain records of the probate court. State law requires secrecy in each case.³

Responsibility of the Press.⁴ The county clerks were asked if members

¹County Questionnaire, questions 16 & 17; Newspaper Questionnaire, question 17.

²Evidently these counties did not consider confidential welfare records as county records.

³G. S. 1949, 79-3116; Session Laws 1953, Chapter 221, Section (f); G. S. 1949, 59-2279.

⁴County Questionnaire, questions 4 & 15.

of the press had ever violated confidence by releasing material which they were requested to withhold. Three such violations were reported, but were all of a minor nature. One clerk said that the press did not take time to fully understand certain records, and that what was printed was misleading. Another charged that the press released information on a particular issue before deliberation was finished. Two of the three criticisms came from counties in which dailies are located.

Attendance of the Press.¹ Of far greater moment in county government-press relations was the infrequent attendance by the press of the county commission meetings which were open. The average attendance in all reporting counties was 27 per cent. In 15 of the 48 counties the clerks reported that the press was never represented at commission meetings, while in 12 counties they were in attendance at 50 per cent or more of the sessions. Among counties where daily newspapers and radio stations are located, the average attendance figure jumped to 52 per cent, with eight of 18 reporting more than 50 per cent attendance.

At the City Level²

It might be pointed out here that official action cannot be taken at an executive or closed session of the commission. Such meetings, although infrequent, are reserved for the discussion of broad policy matters, the determination of areas of responsibility for the city commission and for administrative officers of the city; they are also reserved for such things as preliminary budget hearings which are designed to provide the council with the detailed information necessary to make intelligent program decisions at the time of the official public hearing and which require so much time that it would not be feasible to hold an open meeting. No record is made of the discussion at these

¹County Questionnaire, question 3.

²Appendix "B" under "City Government Questionnaire."

meetings because it does not result in official action and members of the commission are not bound to the opinion they express. As a matter of fact, it is common for commissioners to revise their opinions in the light of further information and consideration and therefore, to render an official decision in a regular meeting different from their opinion previously expressed.

The above statement appeared in a booklet, Formalization of Commission Procedure and Minutes, prepared for the city of Manhattan, Kansas by City Manager Barton Avery. Such formality is necessary in a city of sizeable population. Preliminary meetings are perhaps the only way that a member of the governing body can become acquainted with the many issues that appear. This is not the case in the small town. Government might be quite informal, as Russell Walker, Mayor of St. John explains:

Conditions in a small town are necessarily different from those in large cities. In small towns, people know their officials personally, generally speaking; much discussion of public problems take place personally among the citizens; they are not limited to their knowledge of such events by what they read in the newspapers. The small organizations found in cities of the third and second classes do not leave much opportunity for any governing body to cover up any tracks or withhold information. The average citizen can stop the mayor or a councilman in the postoffice, the restaurant, or crossing the street, and get information simply, without waiting for the newspapers. As there are few secrets in a small town, it is not too difficult for people to understand motives of others who have some axe to grind before the governing body.

Except as a public duty, there is no incentive for the ordinary citizen in the small second or third class city to run for office of mayor or councilman. Salaries are nominal - a per-meeting stipend of \$1 to \$5 in most instances - so financial gain is no incentive. In fact, it is quite often difficult to get candidates in these cities. The general run of people in these small towns, knowing such conditions, are mostly content to trust the judgment and good sense of those who have been prevailed upon to serve. . . .

Executive Sessions.¹ The difference between small town government and "big business" government, shows up clearly in the percentage of executive

¹City Government Questionnaire, question 5 & 6; Newspaper Questionnaire, questions 9c & 10c.

sessions held on the different levels. Of the 105 cities returning, 37 confessed to holding secret sessions. Thirteen of these were in the population class of 5000 or more. Twenty-four were in cities of 2000 or above. Fifty per cent of the cities of 15,000, 70 per cent of cities from 5000 to 15,000, and 50 per cent of cities from 2000 to 5000 population hold closed sessions. On the other hand, only 23 per cent of cities under 2000 have closed their doors to the public and the press when meetings are held.

Mayor F. H. Krehbiel of Moundridge (population 750) declared that, ". . . contrary perhaps to popular belief, (small towns) handle their affairs in a far more wide open manner than larger cities." The mayor explained that an imposing list of municipal accomplishments during the past few years had all been accomplished without closed meetings. ". . . the only executive sessions that we as councilmen can dream up are for the purpose of a penny-ante poker game in the mayor's basement."

Krehbiel went on to say:

. . . where councilmen are perhaps also fellow business men and personal friends who have not gone thru the rigors of a political campaign for election, but have taken the office out of their sense of civic responsibility and "damn" little pay, they themselves have nothing to gain by creating issues. Any difference of opinion more often than not is resolved thru casual conversation over the habitual mid-morning coffee cup at one of the two local cafes so that by the time council session rolls around, we have no disagreement.

Curbstone meetings in small towns are undoubtedly a factor in the low executive session incidence among them. Another factor is the amount of business conducted. Mayor Krehbiel of Moundridge admits that:

. . . were I associated with a much larger city governing body, this stand might undergo some modification. There are many matters which come up for discussion which could perhaps be much more easily thrashed out in at least a sort of semi-privacy. Opening such matters to press and public oft times will create dissention and make issues of inconsequential problems that otherwise would go unnoticed and would be solved just as satisfactorily.

Ninety-nine of the 124 city governing bodies hold their regular meetings with open doors. As noted above, 37 upon occasion go into executive session, but 15 of these admit the press, requesting that the information be withheld from the public. News media representatives made 15 complaints of being barred from a secret session. Six of them came from the 18 daily newspapers.

Executive sessions are generally held for one of two purposes. Either, as explained in the opening quotation of this section, for the purpose of making preliminary studies of matters that will be discussed and decided upon at regular meetings, or for handling personnel matters. The first type is peculiar to the large city since the necessity of background work is limited in the small town. The second type is peculiar to the small city, since the city manager or mayor handles personnel problems in the large city.

Mayor Joe Bentest of Columbus illustrated the second type of executive session. "The only time that the press is barred is when there is an executive session and all employees are barred. These usually are called when new employees are being hired. . . ."

Many newspapers do not object to being excluded from such meetings. E. Martin Glenn, editor of the Ellinwood Leader was excluded from a city council meeting when an employee of the city was to be discussed. Martin "didn't object in that instance because I did not particularly care to cover the infighting in that case."

Emerson Lynn, city editor of the Iola Register, is allowed to attend the executive sessions where employees are discussed, but is requested to hold back information. "In every case," he said, "I believed the requests were reasonable --- these problems frequently stem from personality clashes rather than inefficiency or dishonesty."

E. A. Briles, publisher of the Stafford Courier replied that he had been asked to publish nothing about a decision of the city council until it was put in form of an ordinance, or until some absent councilmen were informed. And when "a city clerk once suggested that they would prefer that nothing be said about an increase in wages . . . (the clerk) withdrew the suggestion when I replied that we would report there had been consideration of a wage increase but requested to say nothing about it."

Press-City Council Controversy. Every case doesn't wind up with such mutual understanding between the press and the city government. Over the strong objection of the local newspaper, one city council forbade the publishing of any information about council meetings except that which was taken from the official minutes. In this city of near 3000 population, the press was charged with presenting unfair and inaccurate accounts of council meetings. The newspaper replied that it merely printed the facts, and that if public disapproval ensued, it was the fault of the councilmen and not the paper.

Although the incident is by no means typical, the arguments of both sides of the controversy are presented here as an example of problems that do, on occasion, arise. The newspaper argument is as follows:

We have covered these (city council) meetings regularly in the past and believe that the councilmen as a whole were in much less hot water with the meetings being covered than when they were not. . . . but recently the mayor and city manager called upon us to ask that the coverage of the meetings be reduced to the minutes as kept by the city clerk. These minutes are so brief and lack explanation that little is known by the public of the city's plans prior to appearance of action or ordinances. . . .

Our difficulty with city reports arose from one councilman who felt that we were persecuting him. (The) fact that we quoted this man continually to explain his position on issues was his only cause for this feeling. We were doing so to tell the people the type officer they had

elected, but never ever indicated that we approved or disapproved. We thought his position on issues would alone convict him. . . .

At this man's suggestion to the city council we were asked not to report the meetings in detail -- just to report the minutes. We published the council's request on page one and told the public that we would resume the coverage as soon as there was enough public request to do so. . . .¹

The officials of the city were asked for comment on the controversy.

A joint statement was prepared by the City Manager, the Mayor, and the councilmen explaining the city point of view.

It is true that we have had disagreements with the local press in regard to its reporting of council meetings. The main cause of trouble was this: a reporter would sit in on the council meeting and would report only that portion of the meeting that he wished to report. Portions of the conversation which took place at the meeting would be printed verbatim and other portions would be deleted, thus, would change the entire meaning of the action or discussion.

The council finally asked the press to write up the meeting verbatim as it was highly displeased with the way the council meeting news was being given to the public. The press took the stand that it cover the meeting to suit itself or not (at) all. Consequently, the press now gets the news from the city clerk's minutes of the meetings.

The press report in the local newspaper got to the point that the council was being made the laughing stock of the entire community, including rural areas. This has a very strong tendency to discourage good and capable men from even considering having a part in local government affairs.

At no time did the council want or ask that its actions be withheld from the public. They only asked and wanted the public to get a true and factual report of the council meetings.

It is my opinion that the action and business taken care of at city council meetings should be made available to the public, preferably (through) the press; but that the public should be given a true and accurate picture of what goes on at the council meetings and not just what some reporter desires to print. I think a distorted report of the council meeting is worse than no report at all.²

¹Name withheld, Newspaper Questionnaire, 1954.

²Name withheld, letter to author, March 3, 1954.

Broadcasting and/or Telecasting.¹ Three radio stations indicated that they had been refused permission to broadcast city council meetings. Four replied that broadcasting was not prohibited. Of those cities in which radio or television stations are located, five said broadcasting was allowed, three said it was not and four answered that no requests had been made for such privilege. Three of the eleven cities made no comment.

Notice of Meetings.² Twenty-six of the 99 returning news media representatives indicated that they had been unable to attend certain meetings of the city governing body because of inadequate notification. Five of twelve returning radio and television stations made the comment, along with one-third of 61 weekly newspapers. In contrast to the executive session incidence, daily newspapers had the least difficulties. Only two of 19 dailies were unable to attend meetings at the city level because of inadequate notice.

Eight per cent of the returning cities do not provide formal notice to the public and press for city governing body meetings. By population groups: over 15,000, 50%; from 5000 to 15,000, 80%; from 2000 to 5000, 60%; below 2000, 92%. Many cities made the same comment as the counties, that the meetings were always held at the same time and place so notification was not necessary. John Vermillion, owner of the Independence News, declared however that newspapers didn't always know this. "They expect the newspaper man to be able to just naturally sense the time, place and dates of the meetings."

Access to City Records.³ Ninety-one of the 99 city officials answering

¹City Questionnaire, question 11; Radio Questionnaire, question 11.

²City Questionnaire, question 13; Newspaper Questionnaire, question 15.

³City Questionnaire, question 16 & 17; Newspaper Questionnaire, question 17.

the question, revealed that they had no privileged records; that all city records were wide open to the public and the press. Only four acknowledged that certain records were secret. Examples cited were official correspondence and records of illegitimate births.¹ R. B. Steward, Mayor of Leoti, declared his sentiments on access to records:

Public records are open to any citizen. As the name "public" implies, the mere keeping of such records is for their recordation as sources of public information. Otherwise, there would be no purpose, other than legal requirement, in keeping them.

Ten complaints were received from news media representatives charging the city administration with keeping certain records secret. Eryll F. Hoff, publisher of the Wellington Monitor-Press declared:

We have had a running battle with the city police department over its records. In this situation the police has a so-called "blotter" or "bulletin" for the inspection of the press and an entirely separate set of records which contain the actual facts about the police cases. The theory is that a reporter can obtain more information than is on the police blotter by asking questions of the desk sergeant or the Police Chief, if he can be found.

Hoff believed that some times the request to withhold news from police records was justified "when the officers were approaching an apprehension, but in others the request was silly and based on a request to the chief from some merchant or householder."

Responsibility of the Press.² Two cities reported violations in confidence by members of the press. Both were over 2000 population. J. M. Funk, City Clerk of Marysville, said that on rare occasions the city officials

¹ Illegitimate births were not considered by most cities as city records. They are, by G. S. Supplement 1951, 65-2422, confidential.

² City Questionnaire, question 4 & 15.

would ask the newspaper to delay or withhold the reporting of council activities.

One reporter particularly does not tend to keep faith with the request. As all meetings are a matter of public record, and we therefore have no legal complaint, we merely overlook the incident, but do not feel favorable to divulging news tips, etc., to said person.

Attendance of the Press.¹ The press attends a far greater percentage of city than county government meetings. While the record of attendance at county commission meetings was 27 per cent, city governing body meetings are covered 52 per cent of the time. Nevertheless, 41 cities reported no attendance, while many other cities felt that attendance by the press should be greater in the interest of good city government. Galen Gagswall, Mayor of Goodland, declared that, "(The) press and radio show remarkably little interest in most city meetings which are necessarily routine."

He continued that many times it is necessary to suggest news stories to the press in order to inform the citizens of city activities. "Laxness of publicity of news agencies here," he concluded, "generally reflects apathy of citizens in the functions of city government."

Cities in which daily newspapers or radio stations are located reported a 70 per cent attendance of news personnel. Cities of 15,000 population declared a 98 per cent coverage. In the population classes from 5000 to 15,000, 74%; from 2000 to 5000, 60%; and under 2000, 35%.

At The School System Level²

None of the statutes relating to meetings of school boards requires

¹Ibid., question 3.

²Appendix "B" under "School Government Questionnaire."

the meetings to be open to the public. . . . Inasmuch as the statute requires meetings of the Boards of County Commissioners to be public, and that meetings of governing bodies of cities must be public where ordinances are passed and that there are no statutory or constitutional provisions for meetings in other cases, the question arises as to whether meetings of governing bodies of other local governments must be open to the public when there is no statutory requirements¹

Though the problem "to open or not to open" is a vexing question to the legal minds engaged in school work, many school boards do not seem to share the concern. As Kenneth Hill, Superintendent of the Stafford city schools remarked, "The press and public are not a problem in this school or community. I do not believe the problem exists in the third class cities and small schools."

Said Superintendent D. E. Walcast of the Marysville schools, "We have always had a very fine relationship with the press and have had the best of cooperation. . . . This has not been a problem with us. . . ."

There are further indications that a high percentage of school officials are totally unfamiliar with the problem. Answers to the School Government Questionnaire of February 25, 1954, were inconsistent and contradictory. For instance, 69 of the 171 returns indicated that the press was not admitted to all non-privileged records, while only 43 admitted to having privileged records.² Another significant fact is that only 11 per cent of school board meetings are attended by the press, compared with 52 per cent for city governing bodies, and 27 per cent for county commissioners.

Because of so little contact with the public and press, school boards generally have not been confronted with the problems of freedom of information.

¹L. W. Cheaney, School Board Handbook, League of Kansas Municipalities, section 402.

²School Government Questionnaire, questions 16 & 17.

Executive Sessions.¹ Despite the apparent casual relationship between school boards and the public, 60 of the 171 school systems replying, admitted to holding executive sessions. The hiring and dismissing of teachers and other employees appeared to be the only prevalent reason for holding such closed meetings. Superintendent of Schools M. F. Stark of Hiawatha explained:

The public is . . . invited to attend school board meetings and the press would be welcome except for certain times when the school administration and the Board might be discussing selection, dismissal, or retention of teachers or school administrators. It is rather self-evident, it seems to me, that such sessions should be private.

But, for the 93 school boards that disclaimed ever holding executive sessions, the attitude was expressed by John I. Sward, Superintendent of Schools, Valley Center: "All our meetings have been and are open to the public or any one who cares to attend. The matter of executive meeting has never come up." Possibly the matter of executive meeting had never come up because no one had ever attended a school board meeting.²

Figures for the various size cities in which the school systems are located are erratic and give no concrete trend. They are: population over 15,000 with six reporting, 33 per cent; population 5000 to 15,000 with 11 reporting, 36 per cent; population 2000 to 5000 with 31 returning, 26 per cent; and population under 2000 with 111 reporting, 41 per cent.

Broadcasting and/or Telecasting.³ The question of broadcasting or

¹Ibid., question 7.

²Sward did not indicate what percentage of school board meetings were attended by the press.

³School Questionnaires, question 11.

telecasting school board meetings did not appear to be a problem. Only 12 of the reporting systems are located near a station. Two of them indicated that broadcasting was permitted, two replied that it was not permitted, and seven said that no request had ever been made. One failed to answer.

Notice of Meetings.¹ ". . . meetings of the school boards are hard to cover," reported R. E. Robinson, Jr., Publisher of the St. Marys Star, "as they apparently have no regular meeting night and no notice of their meetings (except for the annual meeting) is made known." One-hundred - nineteen of the 171 school superintendents reported no formal notification of school board meetings. Seventy per cent of the cities over 2000, and 75 per cent of those under 2000 failed to make such notification.

Access to Records.² Privileged records were professed by 40 of the 171 school systems. Percentages were erratic in the population breakdown: 17 per cent of those in cities over 15,000 population acknowledged privileged records; 30 per cent in cities between 5000 and 15,000 did likewise; 42 per cent of the school systems in cities 2000 to 5000 population claimed privileged records; as did 32 per cent in cities under 2000 population. Invariably secrecy was restricted to the files on teachers and students, although one school official asserted that all his records were privileged unless there was sufficient reason for needing access. Superintendent Stark of Hiawatha felt that secrecy was not necessary.

. . . the widest possible publicity should be given to school action and records at all times. Few schools are more insistent on

¹Ibid., question 13.

²Ibid., questions 16 & 17.

this than our school has been in the past. We even publish, in a county school directory, the salary of each teacher in our city schools, the superintendent and every other school employee. The public is invited at all times to ask questions, ask to see the records, or get any information it wishes regarding their schools.

Responsibility of the Press.¹ There were three examples of news personnel failing to keep faith with school officials. Thomas Menninger, School Superintendent at Moline, declared, "I feel that information given to the press on many subjects comes back in a form that makes you gasp and wonder if you need glasses or something."

The most outstanding example of strained school-press relations appeared in a town of some 500 persons. The editor of the local weekly was unable to attend many of the school board meetings. Rather, he attempted to get information of school board activity from the members after the meeting was over. After a time, the board members declined to furnish the news to the editor. The School Board Director had this to say:

. . . our Editor would like to print his opinions rather than facts after the opinions have been boiled down to working facts. Also it is hard to have a story presented in the opinion expressing the words of the school board. The story winds up slanted with the opinions of the Editor.

In our particular case the Editor has been given every opportunity to write the news, but he does not take the time nor make the effort to get the news. Then when news is furnished to him it winds up slanted with his opinions, which he is entitled to have, but not entitled to express to the public as the opinion of the Board.

Our problem is mostly a difference in personalities rather than a difference in opinions or facts. The Editor has a hard time making his opinions fit in with other people in the community as the School Board feels that the few differences that arise are not entirely the fault of the School Board.²

¹Ibid., questions 5 & 15.

²Name withheld, letter to author, March 3, 1954.

The press commented:

Our community has been in a situation of turmoil for the past five or six years. . . . The school board kept things so quiet that folks finally became suspicious that something really was wrong and petitioned for the dismissal of the superintendent we had at that time. It offended the school board tremendously and they threatened to resign. The next couple of superintendents were not so much of an apple-polisher and we got along fairly well but the school board still can't see that they brought the trouble on themselves and are building up to the same thing again. We now have another superintendent of the apple-polisher type and the parents of the community are rapidly coming to a boiling point. The city administration holds the same ideas. Behind each group is one individual who desires to exercise personal privilege and they know that public knowledge of their continuing actions will tear down their play-house. I editorialize and frankly discuss the situation with some of them but it is so ingrained in them that I do no good.¹

Attendance at Meetings.² Again the major hindrance to coverage of school board meetings is the lack of attendance by the press. Only four per cent of school board meetings in cities of the third class and below were attended by news representatives. In the population class of from 2000 to 5000, 12 per cent of the meetings were covered. The figure was somewhat larger in those cities from 5000 to 15,000, reaching 44 per cent. School systems in cities over 15,000 reported the highest percentage of attendance, with the figure up to 82 per cent. The overall attendance was 13 per cent with 113 of the 171 systems never having had a press representative present at board meetings. Only 19 reported 50 per cent or better.

R. W. Potwin, Superintendent of Schools in McPherson reported, "The press in McPherson does not send a reporter to anything except athletic contests." The Superintendent of Schools at Minneapolis declared, "I

¹Name withheld, Newspaper Questionnaire, 1954.

²School Questionnaire, question 4.

have been in Minneapolis 9 years and not once has a member of the press been to a meeting." Even more revealing is the statement of Edgar Reed, Superintendent of Schools at Solomon. "The press has never bothered nor asked to attend board meetings in my 25 years of administrative work." These statements were boiled down by Superintendent J. C. Edwards of Alma city schools. He said, "... the lack of coverage is not because the school boards do not want their meetings publicized but because the press has too much inertia in its news coverage."

The lack of interest extends to the general public, according to Superintendent Lowell G. Yenser of the Menkato school system. "There are very few occasions when the general public will take time or the interest to attend regular meetings. Most times the public will want to attend only for the purpose of a 'gripe' or destructive criticism of issues or persons."

Summary of Status

The most striking feature of relations between Kansas government and the press and public, is the apparent lack of interest in the meetings of the governing bodies. Interest was found to be relatively high at the city level (though 40 cities reported no attendance at all), and the lack of interest in purely administrative state agencies might well be expected. However, attendance at the meetings of county and school governing bodies was surprisingly low.

One of two implications might be drawn from this. Either the press of Kansas does not adequately fulfill its responsibilities, or, what is more likely, the governing bodies have not been sufficiently abusive or are not confronted with such problems as would arouse interest in their affairs.

It is not necessary to criticize the press for refusing to cover that which has no reader appeal.

Interest, or lack of it, obviously affected conclusions on the questions propounded to government officials. Those who had never been confronted with the need for privileged records or executive sessions, or those who had never had interested persons to be notified of an impending meeting, would find it difficult to state a definite answer. For instance, a city official might never have had occasion to call an executive session, yet would unhesitatingly call one if there were anyone present to be excluded. Or a school superintendent, never having been asked to see a certain record, would never have had occasion to decide whether it was privileged or not.

Executive sessions appear in all levels of government and there seems to be little variation between the levels. The marked difference was between population classes of the same type of government. This is readily seen in consulting the figures of city and county government. Cities of over 15,000 population reported the highest percentage of executive sessions, but also the highest percentage of meetings attended by the press. Counties in which daily newspapers are located reported the highest number of executive sessions, and also the highest attendance figure. The more active press probably had the effect of increasing the vigilance of officials in the desire or need for secrecy. Then too, the city or county with a large population is confronted with many more problems which require preliminary or investigatory sessions.

In the small city under 2000 population, where both secrecy and interest were lower according to the questionnaire, the executive session that might be necessary is held over a cup of coffee or on the street corner. With no

active press to detect and complain of the "curb-stone" meetings, the need for secrecy is lessened.

The population argument does not fit the school system returns. There were no trends established according to population, apparently because of unfamiliarity with the subject.

There appeared to be little grounds to charge the press of Kansas with irresponsible or abusive activity. On the other hand, despite the increased incidence among the more populated governing units, little occasion presented itself for charging the governing bodies with excessive secrecy or abuse of power. The controversies that have arisen appear to be more the result of personality clashes than evil intentions on either side.

CONSENSUS ON NEW FOI LEGISLATION¹

Should there be general state legislation to prevent secrecy in Kansas government? This section reveals answers to this question given by 321 news media and local government representatives.

A supplementary questionnaire was sent to each of 381 persons who had answered the original query before March 6, 1954. The three opinion questions asked in the supplemental poll were answered by 84 per cent of the persons questioned. By groups the per cent of returns were as follows: city government returned 80 of 100 for 80 per cent; county government, 34 of 46 for 75 per cent; school government, 130 of 146 for 89 per cent; newspapers, 65 of 78 for 83 per cent; radio and television stations, 12 of 13 for 92 per cent. The questions on access to meetings, broadcasting

¹Appendix "B" under "Supplemental Questionnaire."

or telecasting of meetings, and access to records were contained in the supplemental questionnaire.

The question on notice of meetings was offered in each of the original questionnaires. Return percentage by groups: city government, 103 returned from 303 for 34 per cent; county government, 48 of 105 for 46 per cent; school government, 171 of 295 for 58 per cent; newspapers, 83 of 350 for 24 per cent; and radio and television stations, 14 of 52 for 27 per cent.

Access to Meetings

Question. Do you favor: (a) State legislation requiring all government meetings to be open to the press; (b) State legislation requiring "regular" government meetings to be open to the press; (c) No legislation necessary?¹

Table 1. Preference of government and news media representatives regarding legislation on access to meetings.

	Total		City Govt.		County Govt.		School Govt.		Newspaper		Radio/TV	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
(a) 89	28	19	24	10	30	15	11	40	62		5	42
(b) 97	30	23	29	14	40	44	34	16	25		0	
(c) 135	42	36	47	19	30	71	55	9	13		7	58

Although part (c) carried a plurality of the total vote, a majority of 186 favored some form of legislation as compared with 135 against all legislation. Heaviest support for part (c) came from the school representatives. It is perhaps significant that there are no state statutes affecting access

¹Supplemental Questionnaire, question 1.

to school board meetings. Somewhat less support for part (c) was from city government, where those meetings in which ordinances are passed are required to be open. In the counties where all formal meetings are required to be open, the plurality was in favor of part (b), supporting legislation to open "regular" meetings.

Newspapers favored all meetings being open. There was however, surprising strength favoring "no legislation." Even more surprising was the vote of radio and TV stations which gave a seven to five majority for part (c). There was little difference in percentages between daily and weekly newspapers. Dailies returned 61 per cent for part (a), 23 per cent for part (b), and 16 per cent for part (c). Weeklies showed 62 per cent favoring all meetings open, 24 per cent favoring only "regular" meetings open, and 14 per cent against legislation.

Cities above 5000 population showed less support for legislation than did cities under 5000. A majority of 71 per cent favored "no legislation" in the cities of large population, while the small ones registered only a small plurality of 39 per cent. School systems too showed increased favoritism for part (c) among those located in cities of over 5000 population. The large school systems returned a majority of 79 per cent against legislation, while those in small cities registered a bare majority of 51 per cent against.

Broadcasting/Telecasting of Meetings

Question. Do you favor: (a) State legislation opening all "public" meetings to broadcasting and telecasting; (b) State legislation opening all

"public" meetings to broadcasting only; (c) No legislation necessary?¹

Table 2. Preference of government and news media representatives regarding legislation on broadcasting or telecasting meetings.

	Total		City Govt.		County Govt.		School Govt.		Newspaper		Radio/TV	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
(a)	90	28	17	22	12	35	24	11	33	50	4	34
(b)	6	32	2	32	2	36	1	31	1	32	0	
(c)	222	70	60	76	20	59	103	88	31	46	8	66

There can be no doubt of the consensus on the broadcasting or telecasting of meetings. The vote among local government representatives was overwhelming for part (c). But even more significant is the fact that 31 newspapers opposed legislation. This could perhaps be explained by the rivalry between radio and newspapers. But that explanation would not justify the fact that eight of twelve radio and TV stations also voted against any form of legislation.

Notice of Meetings

Question. Are you in favor of state legislation making it mandatory that formal public notice be given in advance for all public government meetings?²

¹Ibid., question 2.

²Newspaper Questionnaire, question 16; Radio Television Questionnaire, question 14; County Government Questionnaire, question 14, City Government Questionnaire, question 14; School Government Questionnaire, question 14.

Table 3. Preference of government and news media representatives regarding legislation on mandatory notice of meetings.

	Total		:City Govt.		:County Govt.		:School Govt.		:Newspaper		:Radio/TV	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Yes:	141	38	26	28	9	25	41	27	55	71	11	85
No:	228	62	65	72	27	75	112	73	22	29	2	15

Here again the opinion was decisively against legislation among local government representatives. News media personnel, on the other hand, registered a clear cut opinion in favor of legislation. Those upon whom the extra work would fall if notification were mandatory were against the proposal; those who would benefit supported the proposal.

Daily papers favored legislation by 90 per cent; weeklies only 66 per cent. The difference probably stems from the fact that the large cities, in which dailies are located, have more special meetings for which notification is necessary. Those cities having the extra-scheduled meetings were more firmly opposed to legislation than were the small cities. Municipalities over 5000 population gave only 23 per cent of their vote for legislation, while those under 5000 supported it by 29 per cent. Thirteen per cent of the school systems in the large cities were in favor of legislation, while 28 per cent of those in the small municipalities favored legislation forcing notification of government meetings.

Access to Records

Question. Do you favor: (a) State legislation requiring all government records to be open for the inspection of the press; (b) State legislation

requiring all but privileged government records to be open for the inspection of the press; (c) No legislation necessary?¹

Table 4. Preference of government and news media representatives regarding legislation on access to records.

	Total		City Govt.		County Govt.		School Govt.		Newspaper		Radio/TV	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
(a)	120	37	26	32	12	35	35	27	43	66	4	34
(b)	68	22	15	19	12	35	26	20	15	23	0	
(c)	133	41	39	49	10	30	69	53	7	11	8	66

Those persons who opposed legislation providing access to government records gained a bare plurality of 41 percent. Comparing the number of opinions against, with those favoring either full or limited legislation, part (c) held the minority 133 to 188.

School representatives led again in supporting "no legislation" with an overall majority of 53 per cent. Schools in cities over 5000 population favored part (c) in nine out of 14 returns for 60 per cent, while those in small cities registered 59 of 115 for a 51 per cent majority. City government officials too were sharply divided by population. Those in cities over 5000 population returned a 76 per cent majority against legislation, while small cities showed a weak minority of 39 per cent.

Approximately 11 per cent of the newspapers were opposed to legislation, including 7 per cent of the dailies and 12 per cent of the weeklies. Thirty

¹Supplemental Questionnaire, question 3.

per cent of the dailies and 74 per cent of the weeklies favored all government records being forced open by legislation. The bulk of daily newspaper support went to the middle ground favoring legislation to open all but privileged records. Part (b) accounted for 54 per cent of the dailies and but 14 per cent of the weeklies.

Summary of Opinion

Local government representatives showed a plurality for "no legislation" on all questions, and in some cases a majority. Nevertheless, there was strong support for FOI legislation among government officials. News media personnel ran true to form in favoring the maximum legislation in all but proposed broadcasting and telecasting legislation. However, there were fairly strong minorities against legislation in each case.

The outstanding fact seems to be that those cities under 5000 population provide the concessions of both news media and government representatives. On every question governing officials of large cities were decisively opposed to legislation, while daily newspaper representatives were decisively in favor. In no case was weekly newspaper support as strong for legislation as was that of the dailies. In no case was small city opposition to legislation as strong as was that of the large city officials.

These findings concur logically with the previous section where it was found that secret government, and press opposition to it, was stronger in the larger governing units. It is logical that the officials in the larger municipalities would have the most to lose by legislation, the newspapers in the larger cities (the dailies) would have the most to gain.

ARGUMENTS FOR AND AGAINST LEGISLATION

Arguments supporting and opposing legislation providing for access to government meetings and records are presented below. The appearance of an argument in this section does not mean that it is necessarily completely valid, although there is an element of validity in each. The principle reason for its appearance is that it has been frequently voiced by persons interested in the question. There are some arguments included which have no audible support from the sources used in this report, but seem to the author to be particularly important. Argument six, in favor of legislation is one of them.

Favoring legislation there are: (1) The people's right to know; (2) Education of the citizens; (3) Usurpation of power by public officials; (4) Relief of pressure on public officials; (5) Advance preparation for an eventual need; (6) Confusion of statutes in present law.

Against legislation are: (1) Representative democracy; (2) Conducive atmosphere for decision; (3) Necessity of certain secrecy; (4) Curb-stone executive sessions; (5) Necessity of privacy in personnel problems; (6) Burden of busy bodies; (7) Limitations of facilities; (8) Irresponsible press; (9) Hindrance of broadcasting and telecasting; (10) Power of the press; (11) Possible government control of the press; (12) Municipal rights; (13) Too many laws; (14) Lack of need.

Arguments Favoring Legislation

1. The People's Right to Know.

Argument. The United States has a government of the people. The people as the foundation upon which government is built, are in reality the bosses and as such are entitled to all the pertinent facts and conditions of their

investment. The success of a democracy rests in the wisdom of the people. Deny them access to the workings of government, and they are no longer capable of guiding that government wisely.

Supporting Opinions. J. Russell Wiggins, chairman of the Freedom of Information Committee of the American Society of Newspaper Editors writes:

These (governing) bodies impose taxes on the people and spend the money of the people, and citizens are entitled to know more about the reasons for the taxes and the expenditures than the mere announcement of what has been decided upon. . . .

Open proceedings enlist the best brains of the community in the solution of public problems. No governmental agency, however wise, can hope to know as much about any problem, as the whole body of citizens. Whatever the issue, you may depend upon it, somewhere in the city there is an individual better informed than any member of the government. All that is required to call forth his judgment is such an open conduct of affairs that he may be aware that he has something to contribute. . . .

Open proceedings enable a public body to discover errors of premise or conclusion before final action or recommendation. If the government body sits in secret, faulty premises may be put forth and become the basis of wrong conclusions, the error of which never will be discovered except on final publication. If the same body convenes in public, citizens will come forward to point out wrong premises before they are made the foundation of bad policy, from day to day. No one has ever devised a better system. . . .¹

Chester A. Sargent, Mayor, Westmoreland:

Public business should not be conducted in secret and kept secret. Otherwise it no longer is public business. People have a right to know what is being done when their welfare is affected

Conflicting Opinions. John G. Stutz, Executive Director, League of Kansas Municipalities:

. . . there is a popular misconception of our systems of government. Too many persons show by their talk and their acts that they

¹Wiggins Outlines Case for FOI, The National Publisher, February, 1954, page 15.

believe we have a democracy in which each private citizen is a jerk line driver¹ of his government, especially that he is a jerk line driver of his representative governmental officers, rather than that he is just a partner in the sovereign electorate which partnership has representatives sworn to conduct most of the affairs of its government.²

2. Education of the Citizens.

Argument. If the citizen body is not capable of guiding its government wisely, education in governmental affairs will make it capable. Free access to government meetings and records is an important element in educating the electorate. It increases interest as well as understanding. If the people are to be the source of power they must understand their government.

Supporting Opinions. Fred Hall, Lt. Gov. of Kansas:

Too many state functions are not subject to public scrutiny. Proceedings in state government should be made a subject of record and their publication encouraged. Only in this way will we have an enlightened citizenry to give us the proper tools of government.³

¹The phrase 'jerk-line driver' when applied to a citizen to describe his citizen proprietary efforts in our representative government is derived from the jerk-line driver who was a mule skinner in the teamster business. That is, the character of the citizen's proprietorship of his representative government is compared to that of the mule skinner proprietorship of his team. . . . the mule skinner used the most forceful control known to man upon a mule - namely, a jerk-line on his lower jaw. Second, he reinforced this with the black snake (whip) and finally through the operation he used the most forceful and emotional language which man has been known to devise.

The jerk-line driver citizen proprietor of his representative public officials is a rough and uncouth citizen proprietor of government." John G. Stutz, letter to the author, April 6, 1954.

²John G. Stutz, "Public Attendance at the Conduct of Public Affairs," manuscript for future publication in The Kansas Government Journal, p. 7.

³Fred Hall, letter to author, January 15, 1954.

J. F. Wiggins, Mayor, Genesee:

... it occurs to me that the local citizens should have more information about the local government and perhaps the officials should make an effort to see that it gets to the people through the press. Probably some wise and reasonable legislation is needed providing it does not further burden the local government and taxpayer.

Robert I. Williams, Superintendent of Schools, Canton:

I have a desire to educate our community in certain phases of school work and having board records and meetings open to the public could be the means toward this.

Dr. Harold Cross, author of The People's Right to Know:

... a New York Supreme Court Justice recently remarked: "An overactive interest in the affairs of government on the part of an overly large percentage of the citizenry has not yet been discovered as an evil of democracy."¹

J. Russell Wiggins:

Open proceedings operate as a continuing process of education and enlightenment in government upon the community as a whole. John Stuart Mill has eloquently pointed out that they draw the whole body of the citizens into the project of government. The National Municipal League has stated that "It is from debate, discussion and the clash of opinion that voters learn about their problems and develop an ability to vote intelligently, not from formal ayes and nays."²

Conflicting Opinions. James W. Jones, Principal, Lenora Grade School:

As only one observer, I do not think the public as a whole is prepared to view your so-called "privileged records" intelligently.

2. Usurpation of Power by Public Officials.

Argument. The corruption and power lust of public officials at all government levels is one of the greatest evils of the representative democratic system. From key positions of responsibility, officials are able to secure great personal gain, both financial and political, at the expense

¹Dr. Harold Cross, The People's Right to Know, p. 59.

²"Wiggins", *loc. cit.*

of the citizen body; provided they can cloak their activities behind the veil of secrecy.

The opening of all government meetings and records to the press and public would go a long way toward eliminating this evil. Corruption cannot operate in the open. State legislation forcing the activities of the usurers into the open would, through the court of public opinion, force the dishonest and power hungry politician into retirement.

Supporting Opinions. Larry Marcellus, publisher, Leonardville Monitor-Resent:

All government meetings from Washington to Leonardville should be open to the press if for no other reason than keeping them honest. . . . Honesty makes for decent government, and I have yet to meet a completely honest politician.

R. E. Robinson, Jr., Publisher, The St. Marys Star:

I believe the suppression of news "in the public interest" is a hangover from war days when bureaucrats sought to cover their actions from the public under the excuse that it was not in the public interest.

J. E. McMullen, Mayor, Great Bend:

Any group of public officials who attempt to handle governmental affairs by means of executive meetings and restrictions upon the public and press, are only being guilty of the dictatorship which created World War II, as well as so much unrest now prevalent in the world. In my opinion such individuals have the misguided conception that the public isn't intelligent enough to be appraised of matters and that they (the officials) have some super-knowledge and understanding which sets them apart and makes their judgment not subject to challenge or question. Also, in some few instances, we probably find dishonest deals being attempted, which the less known to the public, the better for the officials concerned.

J. Russell Wiggins:

Open proceedings protect the public against improper or irregular transactions in public bodies.¹

¹loc. cit.

Conflicting Opinions. E. A. Briles, Publisher, Stafford Courier:

If all meetings are open to the public and to reporters, the officials will get together at some other time and place, perhaps not all at once. No law could prevent this and there is too much tendency now to make laws that sound good but that can be easily circumvented. They will do it; they might as well do it in a formal meeting.

R. E. Gaedden, Principal, Pretty Prairie Rural High School:

Seems to me school, just like anything else, cannot just be thrown out to the public. We do not want dictatorship, neither do we want anarchy. A happy medium of control (is best). Why elect a board if they are not to work in their capacity.

Albert J. Beveridge in his Life of John Marshall:

That the people's agents might abuse power was no argument against fixing it, for "the power of doing good is inseparable from that of doing some evil." If power were not given because it might be misused, "you can have no government."¹

If it be said that their representatives may betray the people, the plain answer is that the people must learn to elect honest agents.²

4. Relief of Pressure on Public Officials.

Argument. It would actually be beneficial to government officials to have all meetings and records legally open to the public and the press. These officials would be relieved from the ever-present distrust and suspicion. With public trust in representatives secure, the officials would be able to concentrate on doing their job with a minimum of interference from that suspicious public element that spends a greater part of its time snooping out scandal and misuse of power. No longer would a politician have to become involved in shady secret dealings in order to maintain his position in public office.

¹Albert J. Beveridge, Life of John Marshall, Vol. I, p. 412.

²Ibid., Vol. IV, p. 279.

Supporting Opinion. H. Martin Glenn, Editor, Ellinwood Leader:

I think all records should be open to the public for the protection of officials as well as the public. Take any governmental scandal at random, at any level, and it probably would have been avoided if the record had been public at the inception of the scandal.

Alvin McCoy, Kansas Editor, Kansas City Star:

. . . the only way you can get people's confidence in what you (government officials) are doing is to let them know what you are doing. . . .¹

State Senator Sam Brooker, sponsor "Proposal 13", Topeka:

. . . the idea is this . . . that if you could get a resolution through, so that the people back home would feel that . . . everything is on the up and up . . . I think it would be good public relations. . . .²

Calvin C. Hunter, Morris County Clerk:

I believe if the people know what's going on they are easy to get along with. They will work with you to correct something that isn't right. . . .

5. Advance Preparation for an Eventual Need.

Argument. While it is true that there is no great abuse of freedom of information in Kansas at the present time, the time will possibly come when such abuse will be the rule rather than the exception. Kansas is a growing state. The historical pattern of growing secrecy in government has followed growth of population and special interests. When the state reaches the point in the future where public officials are no longer known by every person in town; where public officials are out of touch with the electorate because of the large population; where the temptations of corruption are greater than the honest, well intentioned official can overcome; then legislation will

¹Hearing, Federal, State and Local Government Committee, Kansas Legislative Council, Topeka, November 11, 1953.

²Id. cit.

be necessary.

But, when that time comes it will no longer be possible to pass such legislation easily. There will be too many vested interests favoring secret government. The fight would be tremendous. The time to pass legislation is now when, though support is light, opposition is also light.

Supporting Opinions. Jake Lawson, Topeka Bureau, Associated Press:

I think it is rather charming, the way the (state) office building commission has adopted the current policy of allowing the press to scrutinize everything it is doing and report its actions. But, what assurance does the public or taxpayer have that he is not going to have a change of heart one of these days and have it closed. There is no rule, regulation, resolution or anything else that specifies that any governmental body shall or shall not hold an open meeting or a closed meeting. It is a matter of the board's own rules. What assurance is the public going to have that it is getting the story?¹

Larry Miller, Kansas Press Association:

I think that's (now) the time to correct the situation. After the house catches on fire, it's a little late.²

Alvin McCoy, Kansas City Star:

You might have, as we do, fairly good relations now. . . . but you don't know what the next meeting is going to do. It could lock up the doors at any time.³

6. Confusion of Statutes in Present Law.

Argument. Perhaps one of the strongest arguments in favor of uniform state legislation to open meetings and records to the public and press, is the present condition of the law in that respect. An examination of the General Statutes of Kansas 1949, the Supplement of 1951 and the Session Laws of 1953 will reveal that it is practically impossible to determine the exact

¹loc. cit.

²Larry Miller, conversation with the author, February 19, 1954.

³Hearing, loc. cit.

position of the state in the legal aspect of freedom of information.

There is a myriad of legislation opening and closing certain meetings and records, with no uniform policy apparent. Because of incomplete indexing on meetings and records, it is impossible to find every statute concerning the issue without examining the statute book page by page.

One law, superseding all previous ones, setting up a uniform system of open and closed meetings and records, would eliminate the confusion which confronts the interested person today. It would also eliminate confusion on the part of the governing bodies as to what they can do and what they cannot do. The League of Kansas Municipalities would no longer have to issue vague and uncertain statements to Kansas governing bodies, as to their legal position with open or closed meetings and records.

Arguments Against Legislation

1. Representative Democracy.

Argument. Our national and state governments are built on the principle of representative democracy. We elect representatives to carry on the business of government so that the electorate may devote its time to the other occupations inherent in American economy. Given the job of representing the people in the business of government, the elected officials should also be given the opportunity to pursue that endeavor without tangling restrictions. If properly chosen, the representatives will do their job honestly and efficiently. Any effort to tie their hands with restrictive legislation would result in waste and inefficiency. If there is corruption in government, it should be corrected by rejecting the officials at the polls.

Supporting Opinions. Emerson Lynn, Jr., Editor, Humboldt Union:

We still have a republican form of government, not a town-meeting form in which raw democracy attempts to function. . . . Public decisions should be left to major problems. Let the elected representatives take care of the rest and give them whatever protection from squabble they seem to need.

Herold Lewis, Mayor, Newton:

. . . we are a democracy in which every citizen has the privilege, and responsibility, of participating in self-government at all levels: local, state and national.

He discharges his responsibility, in part at least, by informing himself and voting on all issues as they are presented to him and by selecting a representative to act for him in official capacity, in good faith. Such representative, in a position of public trust, is then ready to act in good faith and to the best of his ability to fairly represent the people and in the best interests of the community as a whole.

Warner Settles, Principal, Lane County Community High School:

I feel that a board of education is a body of directors of a business, and should be allowed to meet in closed session anytime they desire, other than regular board meetings.

L. E. Wellman, Superintendent of Schools, Langton:

(School boards) are elected by the people without pay. They serve for the public interest. They are generally willing to let the public know what is being done for the good of the schools.

2. Conducive Atmosphere For Decision.

Argument. Public officials who are entrusted with responsibility of making decisions on matters affecting the public welfare, should be given the conditions and atmosphere which promotes wise and just decisions. As justice requires that judges and juries be able to sit in privacy when adjudicating matters of great importance, so should those other government officials be afforded the same conditions.

Supporting Opinion. John G. Stutz:

The principal amount of work of our representative officials in the conduct of government is the exercise of judgment. Such human beings must have suitable working conditions including a certain amount of privacy in which to think, to reason and to discuss tentative

conclusions. The public official especially needs a certain amount of privacy in which to work his trial and error process of arriving at an answer, a conclusion and a final judgment. If his tentative judgment in such matters is subject to the same publicity as his final judgment, he may be severely handicapped. This basic rule applies to the citizens, the electors and our governmental representatives. . . .

. . . a mayor, governor, county commissioner or school superintendent are often badgered for a statement on their intended or their expected act, long before they have come to a well considered decision. I have failed to observe any public good being derived from intruding upon a public official's thinking, his reasoning, and his immature conclusions. On the other hand, I have observed public officials who in a state of pressure and worry over meeting the public before they are ready to act, to make silly, immature, ill-considered statements. These cause the public official, the public service and the government to take a beating. This badgering for that which is not public information is a violation of our guarantees of a representative government.¹

2. Necessity of Certain Secrecy.

Argument. There is a very definite need for privacy among representatives discussing policy on the local, state, national or international level. This need centers around the fact that compromise is the essence of agreement. Compromise is only possible when the parties are able to discuss freely and informally the issues at hand, without public opinion forcing adherence to a rigid line of argument. With all discussion open to public view, the representative must not vary from his stated principles, else he draw derision from his constituents for not standing firm. In consequence there is no agreement, and the business of government is left undone.

Supporting Opinions. Hugh Gibson in The Road to Foreign Policy.

At the end of the last war, we were told (by President Wilson) that one of the safeguards of the new order was to be open diplomacy. Secret diplomacy was to be done away with, and international affairs were to be regulated by open covenants openly arrived at.

¹Statz, op. cit. p. 13-14.

Probably no groups of phrases has led to more muddled thinking on fundamental methods. . . .

If the people know the aims of their government and are kept apprised of undertakings and commitments before effective approval is given there is nothing reprehensible in carrying on the day-to-day negotiations in private — in fact, that is the only way negotiations can be carried on, not only governmental negotiations, but private business negotiations or family discussions. The less publicity there is to negotiation the greater chance of success, but very often the advocates of open diplomacy or democratic control want to sit at the elbow of our negotiator telling him what to say, what not to say, and usually pushing him on to do stunts which have the beauty of being dramatic but don't get him any "forrader." This is nothing more or less than backseat driving and is just about as valuable. The sound course is to choose you negotiators for their ability, tell them what they are to seek to obtain, and let them use their own discretion as to their procedure. . . .¹

General Jan Christian Smuts, former Prime Minister of the Union of South Africa:

. . . We are making an experiment in what our American friends call "open diplomacy." You know that real business is never done with open diplomacy. You shrewd business men in Aberdeen (Scotland) do not conduct your business with open diplomacy. You would never get anywhere if you did so. . . . Every sitting of every commission, of every committee, and of every sub-committee has the press there and is fully reported, and what is reported very often is not the things that matter but the things that have news value. . . . The proceedings are reported out of perspective. You have to be very careful what you say because you are not speaking to the conference.²

Board Currier, Mayor, Boise:

If the press were allowed at all meetings, officials might be accused of an about face, where actually, by the discussion, he became more fully acquainted with the subject. Some very capable men refuse public office due to the fact that they are subject to unjust criticism.

Gerald Beck, Superintendent of Schools, Logan:

I definitely feel that all (school) board meetings do not have to be public. They have as much right to some privacy as a group of

¹Hugh Gibson, The Road to Foreign Policy, p. 77-79.

²Jan. C. Smuts, British Speeches of the Day, September-October, 1945, p. 541.

Republicans or Democrats have in discussing matters of policy. Any action taken by the group should certainly be a public matter; however, the discussion that precedes such actions are not always of public interest and often may be misinterpreted as well as misprinted.

Fred M. Sweeny, Mayor, Ulysses:

The privilege of executive sessions is wise -- sometimes the only escape from radicals or pressure groups.

Max Moxley, Editor, Sterling Bulletin:

There is one important thing that I feel has a place in your survey! It is illustrated by the story of Harold Ickes who was once on the hot seat for allegedly withholding information. He is supposed to have said, "look around you, and you will observe that there are many things in this world that were conceived in private." Any reporter knows that it often takes a long time for a story to "jell". . . . If the commission suggests that I hold up the yarn until something definite has been done, I'll do it.

The International City Managers Association:

To give the council an opportunity to ask informally for information and to discuss municipal affairs without the restrictions of procedural regulations, many city councils hold informal preliminary meetings before their formal public meetings. Since no official record is kept of such meetings, the councilmen are less on their dignity, less inclined to oratory, and more likely to come to a complete understanding and decision in a short time.¹

Conflicting Opinions. Executive Director of the American Municipal Association:

Closed sessions of a city council would seem to be justifiable only on the ground that the people of a city had no right to know what the governing body was doing, that the governing body had no responsibility to the people, and that the governing body did not wish to be influenced by public opinion.²

4. Curb-Stone Executive Sessions.

Argument. A statute forbidding all secret meetings of governing bodies

¹The Technique of Municipal Administration, The International City Managers Association, p. 30.

²Quoted by Cross, op. cit. p. 185.

would be impossible to enforce. If those persons making the decisions wish to discuss some matter that they want to keep from the public, it would be very easy for them to meet casually in the coffee shop, in a hotel room, or on the street corner. This could not be prevented. It would be better to give official sanction to the closed meeting than to drive it underground.

Supporting Opinions. S. H. Jones, Editor, The Lyons Daily News:

... (There is one) ... form of executive session which is impossible for a newspaper to cope with, and that is the curbetone meeting. Councilmen and commissioners can, and often do, meet informally for discussion of questions — on the street or any where convenient — and decide what they will do about a matter at the next formal session.

A. L. Shultz, Topeka State Journal:

Members of recognized news services would not subscribe to a policy, which would permit agents of publications of questionable integrity to enjoy unlimited press privileges. Yet meetings open to the public and the press, make all groups dealing with taxpayer interest subject to such invasions and abuses.

Instead of discussing business in open session, public officials would be forced to meet in hotel rooms in advances of regular gatherings and dispose of disputed issues. A star chamber secrecy policy of that character could become a far greater threat to public interest than current executive sessions, which most newsmen already know how to crack without burglar tools.¹

The National Municipal League:

Of course the rule requiring open meetings for legal or binding action does not prevent informal conferences by members of a governing body at which they may freely exchange views and discuss matters involving personalities that it may not be necessary or desirable to reveal in public. Such conferences could not, of course, be prevented²

5. Necessity of Privacy in Personnel Problems.

Argument. The function of handling personnel matters is administrative

¹A. L. Shultz, "Special Political letter", November 26, 1953.

²Quoted by Cross, op. cit. p. 186.

rather than legislative and should be carried on in privacy. No business could operate efficiently if the hiring, firing, reprimanding and counseling of employees were carried on before other workers and in full view of the public. The same is true of government personnel. This has been recognized in the city-manager type of municipal government, where personnel matters are handled by the city manager in privacy. That is also the case in strong mayor cities. There is no clamor on the part of the public and the press to be admitted to such proceedings, because it is a principle of business with which all are familiar and adjusted.

Yet, when personalities are discussed in executive session, by city councils that must accept administrative as well as legislative duties, the cry of "secret government" is heard. This policy of dealing with personnel in private should be as true of administrative city councils, as of city manager or strong mayor governments. Only in that manner can there be an efficient and happy city force.

Supporting Opinions. Barton Avery, City Manager, Manhattan:

The handling of personnel problems is one of the weaknesses of government without the manager form. Personnel is an administrative, not a policy matter. In cities where there is no city manager, they are justified in handling them in a closed session. But, they should make it known that it is administrative and not policy matters, and the closed session does not constitute an executive session.¹

Dr. F. H. Guild, Director, Research Department, Kansas Legislative Council:

. . . the American Grand Jury system was installed for secrecy, and it was installed so that charges could be presented, and personalities could be discussed, and if that group decided that the facts didn't

¹Barton Avery, conversation with author, February 18, 1954.

warrent carrying it further, it could be dropped and you wouldn't have smeared somebody. Now, I think in disciplinary matters in state agencies that still holds true.¹

M. F. Stark, Superintendent of Schools, Hiawatha:

... members of the press would be welcome except for certain times when the school administration and the Board might be discussing selection, dismissal, or retention of teachers or school administrators. It is rather self evident, it seems to me, that such sessions should be private. Any other procedure would result in handicapping the school seriously.

Gale Moss, Director, State Highway Commission:

During my term of office there have been two or three occasions when the so called "executive session" was invoked in the Highway Department. To date this has only been when a personality or employee was concerned and concern of which general knowledge and conversation, rumor about such a meeting, and what was said might prove embarrassing to the individual involved or might also cause a person to be reluctant to express himself on the subject.²

6. Burden of "Busy Bodies."

Argument. Government meetings and records should be protected from those "busy bodies" who have nothing else to do but snoop out scandal and errors on the part of public officials. Unrestricted access, by virtue of state legislation, would burden government to the point that it would be unable to carry on its duties. Officials in government offices would have to spend much of their time supervising the snoopers. Representatives would have to guard every word in their meetings to be sure that they provide no ground for a cry of scandal.

Supporting Opinions. H. S. Unger, Principal, Highland High School:

"Busy bodies" and "meddlers" are not desired at board meetings and should not have an open invitation.

¹Hearing, *loc. cit.*

²Gale Moss, letter to Dr. F. H. Guild, December 18, 1953.

Irmy C. Walsh, Secretary of the state Board of Penal Institutions:

... it is a matter of common knowledge among persons in parole work and dealing with prisoners, that the presence at the hearings of people interested only in gathering news or satisfying a curiosity regarding certain prisoners and their particular cases, tends to be a disturbing factor, as well as one detrimental to an unbiased consideration of certain types of cases.¹

Conflicting Opinions. Dr. Harold Cross:

The origin of this morbid judicial fear of the record-inspector agitated "for mere pastime, whim or fancy" or idle curiosity remains a mystery. In my hunt through hundreds of books, I have not come upon the spoor of a single one of the specie. I never saw one in the act in the many hours I have spent as a lawyer in the offices of custodians of records. Unless the judges have been hallucinating, which hardly seems likely among those accustomed to insist upon competent legal evidence, it must be that at some time back when this apprehension arose there actually were persons so singularly lacking in imagination as to become addicted to pawing through public records for no better reason than those stated. If so, it is evident that such of their descendants as inherited that record-inspection disease are finding relief in records of batting averages, past performances on the turf, and phonograph records.²

7. Limitations of Facilities.

Argument. In the majority of meeting rooms, space is so limited that an open invitation for all persons to attend government meetings could not be continued if too many persons accepted the invitation. Meeting rooms are crowded as they are, to the point that representatives are distracted. It would be impossible to throw open the doors to everybody, without larger meeting rooms.

Supporting Opinions. Thomas R. Reed, Executive Secretary, Kansas State Board of Health:

Certain space limitation in our usual room for Board meetings are such that it is not possible to have an considerable number of individuals

¹Irmy C. Walsh, letter to Guild, December 10, 1953.

²Cross, op. cit. p. 136.

attend meetings in this location; hence, if all meetings were open, we would have to shop around for a larger room in which to hold the Board's regular meetings.¹

Spencer W. Finney, Director, Kansas Real Estate Commission:

Due to the size of the room in which hearings and meetings are held it would not be possible to accommodate a great many people as the members of the commission, the attorney and the principals involved in the controversy pretty well fill our space.²

E. Irresponsible Press.

Argument. There are many charges against the activities and methods of members of the press: so many that the thought arises that legislation providing unlimited access to government meetings and records by the press would be detrimental to the efficient conduct of business.

Many newspapers are guilty of inaccurate reporting. They seem to make too little effort to obtain all the essential facts and often write a story completely out of character from the actual happenings of government. The accent is changed by the reporter from the central question of a discussion to some side issue that perhaps makes better news, but presents the activities of the governing body in the wrong light. In many cases the reporter is not familiar enough with government activities to be able to interpret correctly what is done at a meeting. Then too, many papers deliberately color stories with their own view on governmental proceedings.

These inaccuracies and misjudgments on the part of the press frequently tend to force the governing body into secrecy in order to avoid misrepresentation to the public. With these considerations in mind, it is possible that the press is not capable of accepting the responsibility of open meetings

¹Thomas R. Hood, letter to Guild, December 7, 1953.

²Spencer W. Finney, letter to Guild, December 8, 1953.

and records.

Supporting Opinions. Louis K. Newsham, Superintendent of Schools,

Madison:

I'm not in favor of board meetings being open to the press because:

(1) Poorly trained press reporters. (2) Personality differences affecting the reporters' views. (3) The interpretation of a reporter many times lacks depth.

Homer J. Ferguson, Mayor, McPherson:

. . . all public officials become irked at the press for incomplete stories -- or showing emphasis on certain facts and leaving out others etc. Very few stories are as "factual" as officials would like. Reader interest seems to require an imaginative reporter.

D. F. A. McEvay, Mayor, Wilson:

The press does have a bad habit of making mountains out of mole hills and when they come to making corrections, hide it in the back page so that the information was left in the public mind damaging the character of some individual and hurting their family for years to come. . . . Consequently, some control over what is published in the papers or over the radio must be maintained.

E. A. Briles, Publisher, Stafford Courier:

I think the sensational newspapers and reporters are to blame for much of the difficulty today. Too often they use only what they want and play it up, without giving the other side. They are not honest in reporting. Consequently officials are often reluctant to expose themselves to unfair reporting. In fact, it is hard to do an honest job of reporting a controversy. Reporters are human and tend to stress what interests them. Often they do not take time to get all the facts and pick out only what will attract readers. Sometimes they do not like an official and are too quick to use something against him and overlook things in his favor. Good reporters are scarce. Too many think success is based on colored stories that get big headlines and a lot of attention.

Eryll F. Hoff, Publisher, Wellington Monitor-Press:

While I am strong for access to records I feel that some newsmen abuse their privilege and spill stuff before it is actually ready. Records of the Probate Judge concerning mental cases may be interesting to a reporter but are not usually material for news stories.

Francis L. Wilson, Ellsworth Messenger:

The press should be entrusted with all public information but

should, at the same time, have a code of ethics requiring that information so received be handled in strict confidence and not released if it is against the public interest to release it.

Before any legislation is passed to force public officials to make all information available to the press, the press should organize an ethics committee to judge and punish irresponsible or selfish use of information by any newspaper. The term "newspaper" should also be strictly defined to eliminate those organs operated by a group for political or business reasons and therefore biased on certain points.

Conflicting Opinions. Jim Petersen, Wichita Beacon:

... you mention how the news is distorted; we can sit down and ask you a question about someone, and you will talk for an hour. Well, that would take nine columns to print all of that, and so we have to pick out something that we think is important in what you said. Then sometimes after we have done all of that, why the editor says, "cut about four lines". . . .¹

Arden Booth, Manager, KLMN, Lawrence:

I am sure that when the press is justifiably requested to sit on a story, in the best interests of the public, or, when there is off-the-record discussion prior to a vote, the press can be depended on to use judgment.

9. Hindrance of Broadcasting and Telecasting.

Argument. Broadcasting and telecasting of public government meetings and trials is detrimental to the conduct of such meetings. Not only do they interfere with the orderly progress of the meeting, but excerpting parts of them for broadcasting or telecasting many times leaves the public with an erroneous conception of what actually transpired.

Representatives who are subjected to the microphone and camera find it difficult to express themselves. They must always be aware of how each statement will sound. If they make a misstatement, there is no correcting it without editing by the broadcasting or telecasting agency. Many representatives find it more convenient to say nothing rather than take the chance

¹Hearing, Enc. cit.

of being misinterpreted.

Citizens who wish to come before the body with complaints or suggestions are hampered if their views are to be aired. Subjected to the cruel climate of public ridicule or misinterpretation, the complainant more often stays away.

Much preparation and technical difficulties are involved in a broadcast or telecast. Representatives must be briefed on what can be said and what cannot be said over the air; they must be careful to speak into the microphone. If the program is being tape-recorded, they must halt the business of the meeting while tape reels are being changed. When meetings are broadcast, representatives become showmen rather than legislators; they must be gifted speakers or limit their speaking in order not to be misunderstood and ridiculed by the public.

Supporting Opinion. John G. Stutz:

...When a citizen petitions his city governing body or other branch of his government he is presumed to have full control of what he says or writes. However, a reporter editing a radio broadcast or a television program may broadcast only portions of such petition. While the members of the city governing body or other branch of government as well as any citizens in attendance at such public meetings get the full text - the full and complete statement and all the environment of the occasion. A transcript of only a section of such affair or the televising of only a section . . . may convey a vastly different idea and produce a different conclusion in the minds of the radio and television public who are also proprietors of their government, but who were not present for the whole affair. . . .¹

G. E. Runey, City Attorney, Baxter Springs:

There are business meetings in which the governing body transacts the business of the city and either broadcasting or telecasting would only lead to confusion and for the most part would be of no particular interest to the public as a whole.

¹Stutz, op. cit. p. 11.

D. C. A. Ogg, Mayor, Douglass:

Broadcasting and telecasting of deliberating meetings and trials have made a show and mockery of them. If a citizen hasn't enough interest in his local government to attend a council meeting once in a while, he or she isn't entitled to much consideration.

Dr. F. A. McEvoy, Mayor, Wilson:

Broadcasting and telecasting of government meetings would be merely turning a business into an entertainment program and would be inspiring to acting rather than to good government.

Conflicting Opinions. Dick Gavitt, News Director, KFH, Wichita:

. . . the radio microphone and recorder are to the radio newsman what the pencil and typewriter are to the newspaper reporter: i. e., the tools with which he works. Any meeting which is open to the press should be open also for recording or direct broadcast.

Radio Television News Directors Association:

We submit that the excluding of one medium of communication from coverage of such an event (legislative committee hearings) will not provide the basic remedy that is needed. We do not maintain that all hearings should be public, but "open" hearings should be public in their truest sense so that not only those who attend shall see and hear what takes place, but the general public should see and hear it as well. It is patently unfair to allow the public only a reporter's version of what takes place in such hearing and in court trials, and to deny the public the fuller coverage provided by the microphone and the camera which project the event itself beyond the confines of the hearing chamber or the courtroom. . . .

In Minnesota, where one of the most flagrant examples of a courtroom carnival (complete with cameras and microphones) was staged, the state bar association is dealing with the problem in a reasonable manner. Rather than crying for exclusion of cameras and microphones on a blanket basis, the association is working out a voluntary code of decorum which will apply equally to the press, radio, television, the bar and the bench.¹

10. Power of the Press.

Argument. Newspapers have ways to get the news. They don't have to depend upon state laws to keep the readers completely informed on the

¹A Report to the Radio Television News Directors Association Concerning Progress in the Campaign for Preservation of Freedom of Information in America, "RTNDA Committee on Freedom of Information, October 27, 1953, p. 5.

happenings of city government. The press is a powerful influence in a community. An organized drive on the part of a newspaper to uncover secrecy, will soon open the doors and drawers; for no official can withstand the pressure of an aroused citizenry stimulated by the press. Newspapers and radio stations are happy the way things are. If there is closed government, it can be opened by the efforts of a powerful press.

Supporting Opinions. Emerson Lynn, Jr., Editor, Humboldt Union:

Secrecy is only possible in a unit of government large enough to defy a curious man. It is difficult, if not impossible to hold "secret" meetings in a county (Allen) or town (Humboldt) of this size.

Arthur W. Bromage, Professor of Political Science, University of

Michigan:

Press and radio can very easily stimulate the councilman's audience. A sharp story or a blue-steel editorial can make any council put on a better act on succeeding nights. No one wants to be in the voters doghouse.¹

A. L. Shultz, Topeka State Journal:

Personally, (and) I think this goes for all the statehouse newspaper men, reporters who cover the news generally, I have never been kept out of a meeting when I didn't feel that I had just as good a story after it was over, because (of) the fact they did keep me out, as I would have gotten if I had been allowed to sit in there. Very often the people who enjoy keeping me out wish . . . I had been present, after we went to press. . . .²

George Mack, Topeka Daily Capital:

I have never yet known an executive session of the Senate where the reporter didn't know almost as fast as the Senators did, what happened in there. Always there is some Senator . . . who is more than happy to give out the information.³

¹Arthur W. Bromage, A Councilman Speaks, p. 72.

²Hearing, *loc. cit.*

³*Id.*

State Representative J. Q. Royce, Salina:

Is the press not more free with closed meetings than they would be with open meetings? You have an open meeting, where they say "gentlemen, we are now going to say something that . . . you had better not put in print." You close the door and they say, "boys you can print it if you can find out what it is." You know what it is in advance; you can put it in the paper. Otherwise, you will be violating your trust. I think maybe we can stifle the press better by having them open.¹

Part Day, Editor and Publisher, Wyessee News:

In a community such as mine, if there was any story a newspaperman wanted and couldn't get it would be entirely the fault of the newspaperman. To a large degree I believe this would be true anywhere. If a working reporter can't make and keep the contacts necessary to get his stories he'd better seek some other line of endeavor.

Max Moxley, Owner, Sterling Bulletin:

The governing body which deliberately defies the press lays itself open to damaging criticism in the columns of the paper with which it refuses to cooperate. To state it simpler: All any editor . . . has to do in such an instance is say in his newspaper, "Hey folks, the council won't let me in. They must be covering up something." This approach darn soon opens up the door and the council, or whatever, soon wishes it had never taken such a stand in the first place.

Glen E. Kiser, Publisher, The Douglass Tribune:

I have no trouble whatever with any officials, city, school, township, county, state. Find that when a newsmen knows his business, acts like a business man, meets officials as an equal and a friend, there is no trouble -- in fact they come to me for suggestions on various questions. If we -- not they -- decide to hold comment, we do so. Legislation needed? No!!! Legislation advisable? No!!!! All the legislation in the world would not help a newsmen if he has not developed enough brains to use what he should get -- to know when to keep his mouth shut and whennot to -- to work with officials, not against them. Legislation of any kind? H--- No!!!!

Harlan Hill, Editor-Publisher, Plainville Times:

. . . we can find out just about everything there is to know by using the proper amount of effort and energy.

¹loc. cit.

Russell T. Tomsley, President, Russell Daily News:

City meetings, executive sessions at which the press has been barred have been blasted by this paper. As a result of stories and groundwork with commissioners, all meetings are now open.

J. W. Murray, Managing Editor, Laurence Daily Journal-World:

The job hereabouts is to get the information out of those who have it, just as the reporter's job always has been, and good reporters find ways to get it.¹

Dr. Harold Cross:

Happily, however, vital as is the law as the last resort, doors to public records and proceedings often swing open to newspapermen by means of other keys. The law and the fact as to access are two different things, often widely disparate.²

11. Possible Government Control of the Press.

Argument. Legislation giving the press access to all government meetings and records could very well be the forerunner to legislative control of the press. That must not happen. It is better to let the press handle its own problem of secrecy without governmental interference.

Supporting Opinions. W. E. Emons, Owner-Editor, The Enterprise-Chronicle, Burlington:

Government meetings -- state, county or city -- should be open at all times not only to the press but to individuals as well. But legislation for that could very easily bring legislation to control news and we certainly don't want that.

William R. Owens, Managing Editor, Maeda Globe-News:

Let's not have any legislative control of the press, or semblance of it. The press can handle an exclusion by pressure, ridicule, other sources. Privileges of press implied. Let's keep it that way. Newspaper can do its own digging without benefit of legislative control.

¹J. W. Murray, letter to the author, February 2, 1954.

²Cross, op. cit. p. 4.

12. Municipal Rights.

Argument. Local problems should be handled at the local level without interference from the state or nation. Centralized control takes local problems out of the hands of the persons who are directly concerned, and impresses it on those who do not understand local conditions.

Supporting Opinions. C. D. Dean, Superintendent of Schools, Plainville:

I am somewhat old fashioned in that I do not like the idea of State legislation. Would much rather settle it on a local basis and have the governmental agencies such as the State and National government keep out of the picture.

Fred M. Thompson, Mayor, Oaklawn:

Our state government has consistently opposed any mandates coming out of Washington, presuming interference with state rights. Why then should a state legislature undertake to tell local city councils how they shall treat the press. I have great respect for the press, even in the face of the fact that it so often abuses its constitutional guarantee.

13. Too Many Laws.

Argument. There are too many laws now. Additional legislation on this subject would only confuse matters and lead to more restrictions on the public. Laws are only as good as the people who live under them. If a law such as this were not wanted by certain public officials they would find innumerable ways to circumvent it. Better to let the good judgment of the officials and public do what is necessary. Additional legislation would only antagonize public officials and make matters worse.

Supporting Opinions. Frances Farris, Mayor, Oswego:

The fact is (there are) too many laws now. Any new dreamed up ideas should be very carefully weighed by those of experience before any attempt is made to draft these ideas into laws.

J. E. McMillen, Mayor, Great Bend:

... at an individual I shy away from so much regimentation and don't like to see a law passed if the situation can be handled in any other manner.

Gordon Yeargan, Superintendent of Schools, Goodland:

We have too many "laws" now. Any problem of the type mentioned or suggested by this questionnaire can be met and solved in mutual trust. If the trust does not exist and friction is present, almost any law can be circumvented.

Warren Moulder, Manager, EMAN, Manhattan:

If legislation is the only manner in which these meetings can be opened to the press, then legislation would have to be accepted. But it is not the means "favored" to gain this end.

14. Lack of Need.

Argument. The few instances of secrecy in Kansas government do not warrant state legislation. In the rare instances when clashes have occurred, it has been differences in personalities rather than organized attempts to delude the public that has been the cause. Whether there are statutes affecting the particular unit of government or not, meetings and records are open to such an extent that new legislation would serve no purpose other than to raise the ire of officials and perhaps bring about circumvention of the law simply because it has been made.

Supporting Opinions. Dr. Harold Cross:

I cannot comment on observed conditions in Kansas. It is the fact that few complaints come to me from newspapers in the state.

F. D. Kroesch, Superintendent of Schools, Kinsington:

I would personally be opposed to legislation in regard to any of these problems, because it would seem to me to be forcing an issue that has no public interest at this time. . . .

George Gov, News Director, KANS, Wichita:

Why kick a sleeping dog??? We are allowed all the privileges we ask for in Kansas. I have never been refused admittance, the privilege of free reporting and the permission to transcribe if I wish. Remember I am speaking only of the State of Kansas. I do not think a law is necessary at this time. There are times when a law will create the very condition you are trying to avoid.

¹ Dr. Harold Cross, letter to author, January 20, 1954.

Fred L. Wiesner, Mayor, Hays:

Would not favor extensive legislation on the matter, as prudence and common sense appears to be the answer in most instances. Publication on specific matters is already required, and beyond that public opinion and watchfulness on the part of the civic minded people can generally produce the proper results.

M. F. Stark, Superintendent of Schools, Hiawatha:

I may appear to be of the "old school" regarding this issue but I do not feel there has been sufficient abuse of the records, so far as the press or the general public are concerned, to justify legislation forcing such publicity.

Elizabeth Simpson, Barber County Clerk:

. . . why any legislation. These records are open to the public. The reporter or editor is part of the public.

CONCLUSION

Analyses

Is state legislation necessary in order to secure freedom of information in the state and local governments of Kansas? The arguments above present conflicting answers. Yet, there are worthwhile elements in each. These conclusions are based upon those arguments in conjunction with the conditions observed in the section on status above.

The most outstanding arguments in favor of legislation are the confusions inherent in the statutes which dictate the present FOI policy and the possibility of a future need which would be more easily provided for at the present time. The strongest argument against legislation is that there is no present need for it. Most of the other arguments are based on idealistic principles which, though meritorious in themselves, cannot be applied to conditions in Kansas in 1954.

The ideal of "The People's Right to Know" is one which few persons would disclaim, within the limits, of course, of security, efficiency, and responsible government. However, it has been shown in this report that the citizens of Kansas have a high degree of freedom of information at the present, though perhaps they do not take full advantage of it. "The People's Right to Know" is not in danger in Kansas, and it will not be until such time as the state becomes populous and centralized enough to make the argument of "corrupt officials" also valid.

Public officials in Kansas do not suffer from the pressures of a demanding citizenry. They are left very nearly to themselves to handle the reigns of government as they see fit. Hence, relief of pressure on public officials will become necessary only when the citizens become aroused because of abuse by public officials.

Any effort to educate the voters in affairs of government is worthwhile no matter what the conditions of freedom. Practically, however, it can be said with the utmost certainty that the voters will not become interested in learning about their government until it is threatened to the extent that their personal freedom and financial status are in danger. History has shown this to be true. Citizens of Kansas are still an independent lot, content to go their own way, caring little about the affairs of their rulers. When their liberty is threatened they will make their presence in government known. Until then they will not become educated.

As pointed out in the section "The National Scene" above, the main impetus for the movement to condemn secret government in Kansas has come from other states where public officials have grown out of touch with their constituents. It has reached this state principally by omelet through various

national news organizations that have legitimate fights on their hands in the other areas.

To be sure, there are a few Kansas editors who have taken up the fight vigorously in opposition to local conditions of secrecy. But the skirmishes have been light with the editors winning hands down when their cause was just and reasonable. These instances are the exception rather than the rule.

A high percentage of editors have expressed their favor of state legislation. But their support appears to be mainly on idealistic principles. It is significant that the majority of newsmen who used local conditions as the basis of their argument were against legislation. While, if questioned, most newsmen would proclaim their approval of legislation, it is the fact that very few are interested enough to conduct an organized local or state-wide campaign.

Kansas F.I. committees of the news organizations conducting national campaigns are languid and apparently disinterested. Not one was able to furnish the author with any report or any material whatsoever on freedom of information within the state. The Kansas Press Association does not even have a file on freedom of information. Nor does the Kansas Historical Society which clips every newspaper in the state. The lack of interest on the part of the Kansas press is wholly justifiable. It reflects the strongest argument against legislation, "the absence of need."

The survey conducted for this report gave the overwhelming conclusion that abuse of freedom of information within the state is insignificant. Executive sessions are held, but in almost every case the purpose is for either advance planning and study, or for handling personnel matters. Few editors felt that they were being excluded for unjust cause, if indeed they

were excluded. Even in the more heavily populated areas where executive sessions are more numerous, there was little complaint from the news sources.

The only records consistently closed are those which are so by statutory mandate. The vast majority of governing units keep confidential only those records required by statute. Few editors objected to that practice.

When these conditions of freedom no longer exist, then legislation will be necessary. And if that time should come, many of the other arguments against legislation will fade into insignificance. When abuse becomes so prevalent that the power of the press is no longer great enough to overcome corruption and secrecy, newsmen will not worry about possible governmental control. The corrupt officials may insist on municipal rights but, providing the legislature is not itself corrupt, the argument will have little weight. "Too many laws" would not stand for long as an argument against legislation, if that legislation were necessary. Limitations of facilities and the inconvenience of "busy bodies" would each become insignificant in the face of gross abuse by public officials. The "conducive atmosphere for decisions" argument would fall by the wayside when it should become apparent that officials were using the conducive atmosphere for personal gain. Granted, the arguments discussed in this paragraph are somewhat valid today; but only because the legislation is also unnecessary.

Representative democracy is an integral part of a republican government. Indeed, it is the only form of democracy that can be adapted to such a large country as this. But if the representatives do not carry their responsibility for the benefit of their constituents, their constituents must devise methods to check their inefficiency and abuse. This would be accomplished partly through a more enlightened citizenry, but more than that, it would be

necessary to compel government to be conducted in the open. Perhaps "curb-stone" executive sessions could never be prevented. However, if their official acts were in the open, the public could get some indication of the caliber of their representatives and could reject them at the polls if necessary.

Today representative democracy functions smoothly in Kansas. Any attempt to hinder it by grossly restrictive legislation would be unjustified. There are certain things which can be accomplished more efficiently in private. Preliminary discussion in which issues are hashed out in private, make the decision that is made before the public a well considered one, if the representatives are capable of sound consideration. In the small political units where councils must handle personnel problems, privacy is as important to the councilmen dealing with personnel as it is in the corporation. The reasoning seems to be sound that governing bodies should have some moments of privacy. But the fact is that most of them have complete privacy now, legislation or not. The public does not attend those meetings which are open. Doubtless there would be no surge of visitors to council meetings were all of them required to be open.

Some consideration should be given to the argument concerning an irresponsible press. It is an argument which seems to have migrated into the state along with those idealistic statements about the "people's right to know." There is little abuse of privilege by the press in Kansas. But public officials and editors alike know that these conditions exist elsewhere. The argument of an "irresponsible press" will become valid when the state becomes heavily populated and centralized enough to attract the irresponsible newsmen. Unfortunately, irresponsible elements in both the press and public officials would appear at the same time. And were the irresponsible

public officials to be restricted in favor of the press, it seems likely that some check upon the news media personnel would become necessary, either voluntarily or by statute.

In retrospect, nearly all arguments have hinged on the fact that there appears to be no abuse of freedom of information in Kansas. Is legislation necessary? Clearly, "No!"

However, there is still to be considered the two strong arguments in favor of legislation. They acknowledge the fact that abuse is not prevalent at the present, but they advance two reasons why legislation would be desirable. A uniform law setting up clear principles of access would eliminate the confusion inherent in the present statutes. It would recognize legally the practices already followed by most governing units, therefore should bring no great opposition from government officials. All governing bodies would operate under the same statute. There would be no doubt as to the legal requirements.

The actual benefit today would be only in clarifying the legal position. Benefits in the future, however, might be great. Kansas is a fast growing state. The time may not be far off when conditions would exist in which corruption could grow. The grasshopper of Aesop's Fables learned that, "It is best to prepare for the days of necessity." Such legislation should not attempt to make government business more open than it is at present. But it should be designed to prevent encroachment upon the present conditions of freedom.

Recommendations

Legislation is desirable in order to keep Kansas as free as it is today.

But, it should go no further. The following points should be embodied:

(1) Every official act of every legislative or regulatory governing body within the state of Kansas, should take place in open meeting.

(2) Governing bodies should not be denied the right to hold closed meetings for the purpose of preliminary discussion, providing final decisions are made in open meeting.

(3) The handling of personnel problems should be regarded as an administrative function and governing bodies should not be prevented from acting on such matters in private.

(4) The quasi-judicial functions of Kansas governing or regulatory bodies should be conducted in manner likened to the judicial process. The indictment of a person under a regulatory agency, and the deliberation of the agency on evidence presented should be afforded judicial privacy. However, the formal hearing should be in public session.

(5) The time and place of all meetings and hearings required by the statute to be open, should be publicized in a newspaper of general circulation in the governing unit concerned, at least 24 hours prior to the holding of such meetings: except that meetings regularly scheduled as to time and place by statute, regulation or ordinance, need not be publicized unless a change in time and place is made.

(6) The broadcasting and/or telecasting of public government meetings should be left to the discretion of the body concerned, until such time as a satisfactory general method of radio/television coverage of such meetings is devised and acceptable procedure is developed.

(7) All records of every governing body within the state should be open to the inspection of every citizen of that governing unit, except those

which may be designated by the Attorney General as privileged from inspection. The Attorney General should draw up for all levels of government a list of those records which he deems to be in a privileged status. The list should be published in each governing unit of the state, and permanently posted in the office of the clerk or secretary of each county and municipality, or of each state agency. Records could be added or removed from the list by the Attorney General upon notification as mentioned above. The legislature, by joint resolution, could invalidate any part of the list or add records to it.

Limitations and Suggestions for Further Study

The question might arise as to the validity of conclusions based upon the questionnaires used in the study. The possibility may be conceded that opinions and conditions expressed by many returners were ill considered and unwise, representing whim or fancy rather than fact and sound judgment. It may further be conceded that many of the persons participating were not familiar enough with the problems involved to answer wisely. However, it should be pointed out that the original queries were designed primarily for the purpose of drawing out the complaints that existed, and of invoking comment from those having a definite opinion of the issues. This purpose was accomplished. It is probable that nearly all those contacted who had a complaint to register did so. It is also probable that all those with profound opinions registered them. From those answers revealing no complaint or profound conviction and from the very inconsistency of other answers, a valuable portion of the conclusions were drawn.

The conclusions were based principally upon the absence of any great

degree of abuse, as evidenced by the questionnaires, and upon the arguments set forth in the preceding section. The arguments were weighed, not upon the number of times they appeared, but upon their relative merits in the opinion of the author.

There were, of course, avenues of study that had to be passed over in this report, themes which could be the basis for future consideration in the field. An important contribution to the study of freedom of information in Kansas might be an investigation into the use of the executive session for handling personnel problems. Such a study should determine the extent of the practice, the opposition to it, the reasons for which it might be continued or a substitute method of personnel control for cities of small size.

Another field of research might be an investigation into the possibility of setting up an accrediting system for newsmen covering government meetings to prevent the growth of an irresponsible press. Newsmen would be accredited for certain government bodies, would sit as unofficial members of those bodies, and be entitled to remain through all phases of organization activities. The reporter would be trusted with all confidential material, but would be obligated to keep it "off-the-record." Correlative with such a system would be a method of control and punishment of newspaper offenders, possibly by an agency formed by the press.

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APPENDIX

APPENDIX A

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Constitutions

United States Constitution

Freedom of the Press.

Amendment I. Congress shall make no law . . . abridging the freedom of speech, or of the press. . . .

Public Trial.

Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. . . .

Kansas Constitution

Freedom of the Press.

Bill of Rights, Article 11. The liberty of the press shall be inviolate. . . .

Public Trial.

Bill of Rights, Article 10. In all prosecutions, the accused shall be allowed . . . to have . . . a speedy public trial. . . .

Kansas Statutes

Access to State Proceedings and Records

Proceedings.

Civil Service Board.

Regular and Special Meetings. C. S. 1949, 75-2928. . . . The board shall maintain its principal office at Topeka, Kan., in such space as shall be

provided for it by the state executive council and shall maintain its records at said principal office, and shall hold its regular meetings there, but special meetings may be held in other cities in the state when in the discretion of the chairman it is necessary to meet in some other city than the capital city of the state in the performance of the duties of the board. Meetings of the board shall be open to the public. . . .

Records.

Abstracter's Board of Examiners.

Registration, Licensing and Bonding of Abstracters. G. S. 1949, 67-806. The board may at any time in its discretion suspend or revoke a license issued hereunder for a violation of the provisions of this act. . . . The board shall keep a complete record of the proceedings at every such hearing and the same shall be subject to public inspection.

Agriculture, Board of.

Registration, Licensing and Advertising Stallions. G. S. 1949, 47-714. . . . It shall be the duty of the secretary of the state board of agriculture to make annual report, including financial statements, to the governor of the state, and all financial statements of said secretary of the state board of agriculture shall be open to inspection.

Cemetery Sexton.

Record of Interment. G. S. 1951 Supp., 65-2426. . . . He shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, the name and address of the funeral director, which shall at all times be open to public inspection.

Chiropractic Examiners, Board of.

Record of Proceedings, Rules and Regulations. G. S. 1949, 74-1903. . . . (c) . . . The secretary of said board shall keep a record of the proceedings of the board which shall at all times be open to public inspection. Said board shall also keep on file with the secretary of state a copy of their rules and regulations for public inspection

Civil Service Board.

Inspection of Records. G. S. 1949, 75-2928. . . . The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection,

subject to such rules as to hours and conditions of inspection as the board may establish.

Corporation Commission.

In Evidence as Other Public Records. G. S. 1949, 74-607. Said corporation commission shall keep an accurate record of all its official acts, and shall also provide a seal. All process or certificates issued or given by the said commission shall be attested by its seal. Copies of the record of the commission, certified by the secretary and attested with the seal of the commission, shall be received in evidence with like effect as copies of other public records.

Dental Board.

Copy of Records. G. S. 1949, 74-1467. . . . The original books, records and papers of the board shall be kept at the office of the secretary-treasurer of said board, which office shall be at such place as may be designated by the board. The said secretary-treasurer shall furnish to any person making application therefor a copy of any part thereof, certified by him as the secretary-treasurer, upon payment of a fee of twenty-five cents per hundred words so copied.

Emergency Fund Board.

Minutes of Proceedings; Public Inspection. G. S. 1949, 74-4108. The state emergency fund board shall keep complete minutes of its proceedings which shall be signed by each member of the board and if any member objects to any matter contained in said minutes, he shall enter his objection at the time of signing the same. When the board is not in session, such minutes shall be kept on file in the office of the auditor of state and shall be open to public inspection during regular office hours.

Health, Board of, and Advisory Hospital Council.

Denial or revocation of license. G. S. 1949, 65-430. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to section 14 hereof. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies.

Highway Commission.

Antifreeze Compounds, Records. G. S. 1949, 8-904. The state highway commission shall issue to the person, firm or corporation its written or printed certificate of approval of any antifreeze compound that meets the requirements herein provided and shall keep an accurate record and list of

all approved antifreeze compounds, copies of which shall be made available to the public.

Record of Convictions. G. S. 1949, 8-5131. . . . (b) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law regulating the operation of vehicles on highways every said judge of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the department, an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail. . . . (d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used. . . . (f) The department shall keep all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours.

Records of Department. G. S. 1949, 74-2012. All records pertaining to title, registration, licenses, dealers, and operator's and chauffeur's licenses shall be public records and open to inspection by the public during office hours. Other records relating to the physical or mental condition of any person shall be confidential. . . .

Proceedings and Files. G. S. 1949, 74-2002. . . . it shall keep a record of all proceedings, and all of the files and records, under reasonable regulations, shall be kept open for public inspection. . . .

Hospitals, Topeka and Osawatomie.

Record of cases. G. S. 1949, 76-1202. A full abstract of all correspondence relating to the admission of patients and the replies thereto shall be kept by the superintendent. He shall also cause to be kept a complete record of each case and the treatment thereof, a prescription record, and such other records as may be necessary to give the board (of Health) and the public a full knowledge of all transactions and business.

Hotel and Restaurant Board.

Duties of Board. G. S. 1949, 36-304. . . . (d) To keep in its office a complete record of all the acts and transactions of the board, which record shall be open to inspection by the public.

Industrial Relations, Court of.

Record of Proceedings. G. S. 1949, 44-604. Said court of industrial relations shall have its office at the capitol of said state in the city of Topeka, and shall keep a record of all its proceedings which shall be a public record and subject to inspection the same as other public records of this state.

Land Office.

Inspection of Documents and Records. G. S. 1949, 75-2804. The state land office shall be kept open during business hours, and shall have the personal supervision of the register or his deputy; the documents and records therein shall be subject to inspection in the presence of the register by parties having an interest therein, and certified copies thereof, or abstracts signed by said register, with the seal of said office attached, shall be deemed presumptive evidence of the fact to which they relate, and on request they shall be furnished by the register for a reasonable compensation.

Legislature.

Carbon Copies of Titles to Newspaper Reporters. G. S. 1949, 46-120. It shall be the duty of the secretary of the senate and of the chief clerk of the house of representatives to furnish carbon copies of the titles of bills, resolutions and petitions and carbon copies of such other legislative documents as may enter into the records to authorized reporters of bona fide newspapers, solely engaged in reporting the news of the legislature, upon the blanket approval of the request of said newspaper reporters by the president of the senate or the speaker of the house of representatives, as the case may be.

Medical School.

Record of Dead Bodies. G. S. 1951 Supp. 65-902a. . . . A receipt for the body shall be given to the person delivering same, which receipt shall be dated and entered in a book to be kept by said medical school and which record shall be open to public inspection.

Optometry Examiners, Board of.

Record of Proceedings. G. S. 1949, 74-1502. That said board shall keep a record in which shall be registered the name, residence, place of business, date of issuance of certificate, renewals, revocations and suspensions of every person authorized under this act to practice optometry in this state. A majority of said board shall constitute a quorum and the proceedings thereof shall be open for public inspection.

All Records. G. S. 1949, 74-1504. . . . The board shall preserve an accurate record of all meetings and proceedings of the board including receipts and disbursements with vouchers therefor and complete minutes of all prosecutions and violations of this act and of examination held under the provisions hereof and an accurate inventory of all property of the board; that all such records shall be kept in the office of the board and made accessible to the public. . . .

Public Records.

Defined. G. S. 1949, 75-3501. For the purposes of this act (Public Records Act): "Records" mean originals or copies of written or printed books, documents, correspondence, papers, maps, drawings, charts, indexes, plans, memoranda, sound recordings, motion-picture or other photographic records, which are the property of any department, officer, board, commission or agency of the state.

Real Estate Commission.

All Commission Records. G. S. 1949, 74-4204. . . . (3) . . . All records kept in the office of the commission, under authority of this act, shall be open to public inspection under such reasonable rules and regulations as the commission may prescribe.

Revenue and Taxation, Commission of.

In Evidence as Other Public Records. G. S. 1949, 74-2413. . . Copies of the records of the commission, certified by the secretary and attested with the seal of the commission, shall be received in evidence with like effect as copies of other public records.

Acts and Orders. G. S. 1949, 79-1402. The state commission of revenue and taxation . . . shall keep in its office a public record of its acts and orders. . . .

Revisor of Statutes.

Rules and Regulations of Agencies, Boards and Commissions. G. S. 1949, 77-409. The revisor of statutes shall: (1) Endorse on each regulation or compilation of regulations filed, the time and date of the filing thereof. (2) Maintain a file of such regulations for public inspection

School Fund Commission.

Inspection of Records. G. S. 1949, 75-2308. All the record books and records of such board shall be kept in the office of the state superintendent of public instruction, but the same shall be open during office hours for the inspection of every citizen of the state of Kansas.

Secretary of State.

Labor Organization Records. G. S. 1949, 44-807. The secretary of state shall prepare and keep a register or proper record showing the date of filing of the application provided for in section 3 (44-804) of this act, the name of

the licensee, and of the labor organization for whom he will act as agent, and shall receive, file and properly index the documents provided for in sections 4 (44-805) and 5 (44-806) of this act. The records provided for herein shall be made available by the secretary of state to all persons for examination and taking of copies.

Records of Joint Committee of Claims and Accounts of Legislature. G. S. 1949, 46-116. . . . The journal provided herein, together with all claims, shall be, safely deposited with the secretary of state by the clerk of said committee at the close of the session, and the said secretary of state shall present the said journal to the state printer to be permanently bound, and the same shall become public records in his office for the information of the public and for the guidance of succeeding legislatures, and shall be entitled to full faith and credit as such.

Records and Documents in Custody of Secretary. G. S. 1949, 75-406. Papers, records and documents in the office of the secretary of state shall not be permitted to be taken from his office, or from his possession or that of his clerks; but certified copies shall in all cases be given when required.

Same. G. S. 1949, 75-409. The secretary of state, when required by any person to make out a copy of any law, resolution, bond, record, document or paper deposited or kept in his office, shall attach thereto his certificate, under his official seal; . . . and he shall receive for making out such copy, ten cents per folio and for certificate and seal, fifty cents.

Trademarks. G. S. 1951 Supp. 81-117. The secretary of state shall keep for public examination a record of all trade-marks registered or renewed under this act.

Social Welfare Department.

Record of Proceedings. G. S. 1951 Supp., 39-909. . . . The procedure governing hearings authorized by this section (Denial, suspension or revocation of license) shall be in accordance with section 75-3306 of the General Statutes of 1949 and with the rules promulgated by the licensing agency. A complete record shall be kept of all proceedings, and all testimony shall be reported and copy or copies of the transcript may be obtained by an interested party on request.

Vital Statistics Division.

Disclosure of Records. G. S. 1951 Supp., 65-2422. (1) The records and files of the division of vital statistics are open to inspection, subject to the provisions of this act and regulations of the board; but it is unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by this act and the board. (2) Disclosure of illegitimacy of birth or of information from which it can

be ascertained, may be only upon order of a court in a case where such information is necessary for the determination of personal or property rights and then only for such purpose. (3) The state registrar shall not permit inspection of the records or issue a certified copy of a certificate or part thereof unless he is satisfied that the applicant therefor has a direct interest in the matter recorded and that the information therein contained is necessary for the determination of personal or property rights. His decisions shall be subject, however, to review by the board or a court under the limitations of this section. (4) The board shall permit the use of data contained in vital statistical records for research purposes only, but no identifying use thereof shall be made. (5) Subject to the provisions of this section the board may direct local registrars to make a return upon the filing of birth, death and stillbirth certificates with them of certain data shown thereon to federal, state or municipal agencies. Payment by such agencies for such services may be made through the state registrar to local registrars as the board may direct.

Confidential Records.

Bank Commissioner.

Investigation or Examination Records. G. S. 1949, 9-1712. All information which the commissioner shall gather or record in making an investigation and examination of any bank or trust company shall be deemed to be confidential information, and shall not be disclosed by the commissioner or any assistant, or examiner, or employee thereof, except to the attorney general when in the opinion of the commissioner the same should be disclosed and except as otherwise provided in this act.

Barber Examiners Board.

Examination Records. G. S. 1949, 65-1831. That no member of said board, nor any officer, agent or employee thereof, shall divulge to any person, firm or corporation the contents of any document, paper or record, examined by him in the performance of his duties hereunder, or any information obtained by him in the course of his investigation, except as may be required to carry out the purpose of this act.

Discriminatory Practices Prevention Commission.

Case Records. Session Laws 1952, Chapter 249, Section 5. . . . For the purpose of assisting and furthering successful conciliation efforts, neither the commission nor the executive director, nor any agent, attorney or employee of said commission shall publish or disclose the filing of any such complaint, the results of the investigation, nor the efforts of conciliation and conciliation.

Health, Board of.

Hospital Inspection. G. S. 1949, 65-436. Information received by the licensing agency (Board of Health) through filed reports, inspection, or as otherwise authorized under this act, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure.

Highway Commission.

Medical Data. G. S. 1949, 74-2012. All records pertaining to title, registration, licenses, dealers, and operator's and chauffeur's licenses shall be public records and open to inspection by the public during office hours. Other records relating to the physical or mental condition of any person shall be confidential.

Parental Homes, Custodial Schools, Juvenile Farms.

Records of Inmates. G. S. 1949, 36-519. It shall be the duty of the superintendent or matron of the parental homes or custodial schools or juvenile farms to keep a complete record of all inmates of the homes, of the schools, or the farms, including a birth certificate, if possible to obtain, age, sex, time of admission and time of discharge, conduct and character, state of health at admission and dismissal and including final disposition and shall make monthly report to the judge of the juvenile court on blanks provided for same. All records to be kept private except upon order of the judge of the juvenile.

Revenue, Director of.

Income Records. G. S. 1949, 79, 3234. . . . (b) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the director, any deputy, agent, clerk or other officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report or return required under this act. . . . (c) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the attorney general or other legal representatives of the state. . . .

Motor-fuel Tax Investigations. G. S. 1949, 79-3420. . . . but any information gained by the director, his deputies or agents, as the result of the reports, investigations, and verifications herein required to be made, shall be confidential, and shall not be divulged by any person except as herein provided. . . .

Special Fuel Use Tax Investigations. G. S. 1949, 79-3444. . . . but any information gained by the director, his deputies or agent, as the result

of the reports, investigations, and verifications herein required to be made, shall be confidential, and shall not be divulged by any person, except as shall be necessary in the administration and enforcement of this act or any rules and regulation promulgated by the director, pursuant thereto, or as provided in this act.

Retailers' Sales Tax Records. G. S. 1949, 79-3614. All information received by the director of revenue from returns filed under this act, or from any investigation conducted under the provisions of this act, shall be confidential, except for official purposes, and it shall be unlawful for any officer or employee of such director of revenue to divulge any such information in any manner, except in accordance with a proper judicial order, or as provided in section 1 (74-2424).

Social Welfare, Department of.

Boarding Homes, Information on. G. S. 1951 Supp., 39-912. Information received by the licensing agency (Dept. Social Welfare) through filed reports, inspections, or as otherwise authorized under this law, shall not be disclosed publicly in such manner as to identify individuals or boarding homes, except in a proceeding involving the question of licensure.

Vital Statistics, Division of.

Illegitimate Birth Records. G. S. 1951 Supp., 65-2422. . . . (2) Disclosure of illegitimacy of birth or of information from which it can be ascertained, may be only upon order of a court in a case where such information is necessary for the determination of personal or property rights and then only for such purpose. . . .

Legitimation. G. S. 1951 Supp., 65-2424. In cases of legitimation the state registrar upon receipt of proof thereof shall prepare a new certificate of birth in the new name of the legitimated child. The evidence upon which the new certificate is made and the original certificate shall be sealed and filed and may be opened only upon order of the court.

Access to County Proceedings and Records

Proceedings.

County Commissioners.

Meetings of the Board. G. S. 1949, 19-216. Every board of county commissioners shall have a seal, and may alter the same at pleasure. They shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings; and they may establish rules and regulation to govern the transactions of their business.

Records.

Abstract Records.

Free Access by Abstractors. G. S. 1949, 67-804. For the purpose of operating such licensee's business of abstracting and the compiling, posting, and keeping up of abstract books necessary for the proper conduct of said business such licensee shall have free access to the county records of the several county offices, under the direct supervision of the county officers having the legal custody of said records and while using said county records the said licensee shall be under the same obligations to protect and carefully keep and preserve said records as the several county officers who have the legal custody thereof, and subject to the same penalties for a violation of such as said officer would be.

Clerk of County.

Records of Clerk. G. S. 1949, 19-306. It shall be the duty of such clerk to designate, upon every account which shall be audited and allowed by the board (of county commissioners), the amount so allowed; and he shall also deliver to any person who may demand it, a certified copy of any record in his office, or any account on file therein, on receiving from such person ten cents for every folio contained in such copy.

Statement of Costs of Drought-Relief Water-Supply Project. G. S. 1949, 19-3002. . . . the operator so named shall keep a record of the costs of fuels and materials and the actual costs of operation of such machinery and equipment used in the construction and maintenance of each drought-relief water-supply project, and he shall file a statement of the costs of fuels and materials used on each project with the county clerk, and such statement shall be a part of the public record.

Absentee Ballot Records. G. S. 1949, 25-1104. . . . All records made by the county clerk under the provisions of this section shall be subject to public inspection, except as to the identifying number on ballots and ballot envelopes and records of said number which shall in no case be made public.

Limited Partnership Certificates. G. S. 1949, 56-106. The certificate so acknowledged and certified shall be filed in the office of the county clerk of the county in which the principal place of business of the partnership shall be situated, and shall be recorded at length by the clerk in a book to be kept by him; and such book shall be subject at all reasonable hours to the inspection of all persons.

Same. G. S. 1949, 56-107. If the partnership shall have places of business situated in different counties, a copy of such certificate and of the acknowledgment thereof, duly signed by the clerk in whose office it shall have been filed, under his official seal, shall be filed and recorded in like

manner in the office of the clerk of every such county; and the books containing such records shall be subject to inspection in like manner above directed.

Commissioners, County Board of.

Records Concerning Control of Weeds. G. S. 1949, 2-1322. The board of county commissioners, township boards, and the governing body of cities shall keep a record showing purchases of material and equipment for control and eradication of noxious weeds. They shall also keep a complete itemized record showing sales for cash or charge sales of material, also hours used and price per hour for use of equipment owned by each county, township or city on public and private land. Such records shall be open to inspection by citizens of Kansas at all times.

Records of No-Fund Warrants. G. S. 1949, 79-293E. . . . Any taxpayer interested may file a written protest against such application. The commissioners shall keep written records of all hearings and it shall make no order for the issuance of such warrants until it shall make written findings in support of the application. All such records and findings shall be subject to public inspection.

Officers of County.

Availability of Records. G. S. 1949, 19-2601. Every county officer shall keep his office at the seat of justice of his county, and in the office provided by the county, if any such has been provided; and if there be none established, then at such place as shall be fixed by special provisions of law; or if there be no such provisions, then at such place as the board of county commissioners shall direct, and they shall each keep the same open during the usual business hours of each day (Sunday excepted); and all books and papers required to be in their offices shall be open for the examination of any person; and if any of said officers shall neglect to comply with the provisions of this section, he shall forfeit, for each day he so neglects, the sum of five dollars; . . .

Register of Deeds.

Records of County Surveyor or Engineer. G. S. 1949, 19-1428. That in all counties in the state of Kansas where the county surveyor's office is not kept open each day in the week, the same as other county offices, that the books and records as provided for in General Statutes of 1868, chapter 25, section 159 (19-1497), shall be kept in the office of the register of deeds of said county at all times when the office of county surveyor is not open for the convenience of the public. . . .

Same. G. S. 1949, 19-1418. . . . The county surveyor of each county shall deposit the copy of such plat and field notes now in his office, or

hereafter received, in the office of register of deeds of his county, and the same shall be there kept for the convenience of the public. . . .

County Gas Inspector Records. G. S. 1949, 55-305. Said inspector shall inspect all gas wells in his county. He shall measure and record, as nearly as can be ascertained, the initial rock pressure of, and also the volume of gas produced by, each of such wells. Such inspection shall be made and measurements taken and recorded at least once in each six-months period during his term of office, and at any other time or times directed by the board of county commissioners. All such records shall be entered and kept in substantially bound record books, suitably ruled, printed, indexed and arranged for that purpose, to be provided by the county and kept in the office of the register of deeds subject to public inspection.

Mortgages and Conditional Sales. G. S. 1949, 58-302. Upon the receipt of any such instrument, the register shall endorse on the back thereof the time of receiving it, and shall file the same in his office, to be kept there for the inspection of all persons interested.

Social Welfare Board.

Welfare Records. Session Laws 1953, Chapter 221, Section (f). The county board and the private agencies shall maintain two files of the cases; one shall be the public file, which shall contain the approval and financial data needed; and the other shall be the case record file containing the case history and confidential personal or family data which is obtained in the course of assisting the client. The confidential case record files shall be kept by the county boards and private agencies, and they may be available only to the officers and employees of the county boards, private agencies, and the state board. The county board shall on or before the twenty-eighth day of each month file with the county clerk one copy of the public file showing the names and addresses of all recipients receiving payments under this act, together with the amounts paid to each during the preceding month, and shall retain one copy in the county welfare office. The reports so filed with the county clerk and the copy retained by the county welfare office shall be bound in record books provided for that purpose, which said books and all reports contained therein shall be and the same are declared to be public records and shall be open to public inspection at all times during the regular office hours; provided, That it shall be unlawful for any person, association, firm, corporation or other agency to disclose, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any lists or names for commercial or political purposes of any nature. . . .

Treasurer of County.

License Plate Records. G. S. 1949, 8-148. . . . The names of registered owners of motor vehicles and the records in the office of the county treasurer shall at all times be open to inspection by the public.

Confidential Records.

Clerk

Intangible Tax Records. G. S. 1949, 79-3116. That any list or statement herein provided for shall only be open to inspection by the assessor, county clerk and board of review of the county wherein the same is filed, and the state commission of revenue and taxation and clerks, except upon order of a court of competent jurisdiction, and it is hereby made unlawful to exhibit, disclose or publish any such list or statement or any part of the same or any of the items of the same.

Social Welfare Board.

Case Record File. (See Welfare Records above.)

Access to Municipal Proceedings and Records

Proceedings.

Governing Bodies.

City Manager Plan. G. S. 1949, 12-1009. The commission shall meet regularly twice a month, or oftener if the public business requires; Provided, That in cities of the first class, the commissioners shall meet at least once a week, or oftener if the public business requires. A call signed by a majority of the commission shall be sufficient warrant for a special meeting. Regular or special meetings shall always be open to the public.

First Class Cities. G. S. 1949, 13-1421. All ordinances of the city shall be read and considered by sections at a public meeting of the council, and the vote on their final passage shall be taken by yeas and nays, which shall be entered on the journal by the clerk. . . .

Second Class Cities. G. S. 1949, 14-106. All ordinances of the city shall be read and considered by sections at a public meeting of the council or board of commissioners, and the vote on the final passage shall be taken by yeas and nays, which shall be entered on the journal by the clerk. . . .

Third Class Cities. G. S. 1949, 15-108. All ordinances of the city shall be read and considered by sections at a public meeting of the council, and the vote on their final passage shall be taken by yeas and nays, which shall be entered on the journal by the clerk. . . .

Budget Hearings. G. S. 1949, 79-2929. Prior to the filing of the adopted budget with the county clerk, the governing body of each tax

subdivision or municipality, except common-school districts, and rural high-school districts, shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. . . .

Records.

Clerk.

Record of Funds. G. S. 1949, 10-1117. It shall be the duty of the clerk or secretary of every governing body of every municipality to keep a record of the amount of money in the treasury and the particular fund in which such money is deposited and to keep a record of all contracts creating a liability against the municipality, and a record of all indebtedness created by the governing body, in which record there shall be shown the date of the making of the contract or the creation of the debt, the amount of the contract or debt, the time payable, and the particular fund from which said payment is to be made, and the said clerk or secretary shall, upon the request of any member of the governing body of which he is clerk or secretary, or at the request of any taxpayer of such municipality or of any person desiring to enter into any contract with the municipality or who has any claim against the municipality, exhibit such records to such person, and any member of the governing body, and any person contracting with the said municipality shall be chargeable with knowledge of what said records contain.

Judgments Against City of First Class. G. S. 1949, 13-1438. The city clerk of all cities of the first class shall, within sixty days of taking effect of this act, make a record of all judgments now unpaid against said city certified to them as provided in section 1 (13-1437) of this act, in a book to be kept by them for said purpose, showing the name of the party in whose favor said judgment was rendered and for what amount it was entered, the date and the amount thereof, the rate of interest it draws, and if set aside, the date thereof, and the date of the payment; and shall enter thereon all judgments hereafter rendered against said city as the same may be certified to them, which record shall be open to the inspection of the public at all times during business hours.

Poll Books. G. S. 1949, 25-426. After canvassing the votes in the manner aforesaid, the judges, before they adjourn, shall put under cover one of the poll books, seal the same, and direct it to the county clerk of the county where the return is to be made; . . . and the other poll book shall be deposited with a trustee of the township or clerk of the city, as the case may be, within three days of the election, there to remain for the use of the persons who may choose to inspect the same.

Governing Bodies.

Records Concerning Control of Weeds. (See same title under County

Records, Board of Commissioners.)

Treasurer.

Record of Funds. G. S. 1949, 10-1118. It shall be the duty of the treasurer of every municipality to keep a record of the amount of money on hand in the treasury, which record shall show at all times the amount of money in each particular fund, and each order, warrant, check or other evidence of indebtedness, drawn on the treasury and paid, giving the date of payment, and said treasurer shall, upon the request of any member of the governing body of such municipality or at the request of any taxpayer of such municipality or at the request of any person desiring to contract with such municipality or who has a claim against such municipality, exhibit such records to such person or give such person a statement in writing, showing the balances on hand in each of the funds of said municipality, and each member of the governing body and every person contracting with said municipality shall be chargeable with knowledge of what said records contain.

Access to Township Proceedings and Records

Proceedings.

Township Board.

Townships Over 15,000 in Counties Bordering Another State. G. S. 1951 Supp., 8-2305. Within five (5) days after taking office, the members elected to the board shall meet and organize by electing a chairman, treasurer, clerk, and such other officers as they shall determine. The board shall fix the place and time of its meetings and shall meet regularly twice a month or oftener as public business requires. Special meetings may be called by the chairman or upon the written request of three (3) board members. All meetings shall be open to the public, and a record kept of all business transacted.

Budget Hearings. (See same title under Municipal Proceedings, Governing Bodies.)

Records.

Township Board.

Records Concerning Control of Weeds. (See same title under County Records, Board of Commissioners, above.)

Clerk.

Poll Books. (See same title under Municipal Records, City Clerk, above.)

Records of the Clerk and Treasurer. G. S. 1949, 81-503. The records and other books of the township clerk and treasurer shall always be open for public inspection.

Treasurer.

Records of the Clerk and Treasurer. (See same title under Clerk above.)

Access to Special District Proceedings and Records

Proceedings.

Governing Body.

Budget Hearings. (See same title under Municipal Proceedings, Governing Bodies, above.)

Drainage Districts. G. S. 1949, 24-416. That regular meetings of said board of directors shall be held on the first Monday of each month, and special meetings may be held at any time when all of the directors are voluntarily present, or may be called by the president or any two directors at any time. . . . But each meeting of the board, whether regular or special, shall be open to the public and no meeting shall be held by the board or any members thereof, to which the public is denied admission and the board shall not at any time go into executive session.

Irrigation Districts. G. S. 1949, 42-736. . . . Each meeting of the board shall be open to the public.

Watershed Districts. Session Laws 1953, Chapter 477, Article 3, Section 12. . . . A majority of the directors shall constitute a quorum for the transaction of business and in the absence of any of the duly elected officers of the district a quorum at any meeting may select a director to act as such officer pro tem. Each meeting of the board, whether regular or special, shall be open to the public and the board shall at no time go into executive session.

Water Supply Districts. G. S. 1951 Supp., 19-3520. Every water district board shall at a place to be designated by said board meet in regular session, on the first Monday in each month during the year, and in special session on the call of the chairman or at the request of any three. . . .

All meetings, records and accounts of the board shall be public.

Records.

Governing Body.

Irrigation Districts. G. S. 1949, 42-787. . . . All of the transactions and proceedings of the board shall be entered in writing by the secretary in a journal to be kept by him expressly for such purpose, which journal shall at all times be open for inspection by all electors of the district... .

Water Supply Districts. (See Special District Proceedings above, under Governing Body, Water Supply Districts.)

Access to School District Records

First and Second Class Cities.

Inspection of Records. G. S. 1951 Supp., 72-1421. The clerk of the board shall attend all meetings of the board; shall keep an accurate journal of its proceedings; and shall have the care and custody of the records, books and documents of the board. . . . The records of the board shall, at all reasonable times, be open for and available to public inspection.

Community High School Districts.

Inspection of Records. G. S. 1951 Supp., 72-2534. . . . The records of the board shall, at all reasonable times, be open for and available to public inspection.

Access to Court Proceedings and Records

Open Records.

Courts of Record and Not of Record.

Authenticated Transcripts. G. S. 1949, 60-3321. Judges of the probate courts, justices of the peace and other judicial officers and tribunals exercising judicial function, having no clerk, and the clerk of every court of record shall, upon request, and being paid the lawful fees therefor, furnish authenticated transcripts of the records and papers in their custody to any person demanding the same.

Justices of the Peace.

Books and Papers. G. S. 1949, 61-1507. It is the duty of every justice upon the expiration of his term of office to deposit with his successor his official docket, as well his own as those of his predecessors which may be in his custody, together with all files and papers, laws and statutes pertaining to his office, there to be kept as public records and property. . . .

Police Court.

Inspection of Records in Cities of First and Second Class. G. S. 1949, 12-1108. The governing body of each of such cities shall provide suitable records, blanks, etc., for the use of the judge in carrying out the provisions of this act. Such records shall be kept open at all times for the inspection of all persons interested therein.

Probate Court.

Inspection of Records. G. S. 1949, 59-214. The books and records of the probate court shall be open to inspection by all persons at all times, except as provided in adoption proceedings. The court shall furnish a certified or authenticated copy of any document on file or of record upon payment therefor.

Confidential Proceedings and Records.

District Court.

Prenatal Examinations. G. S. 1949, 23-306. In any case where such examinations and tests have been made and certificate or certificates have been issued and filed pursuant to this act and a marriage license refused because one or both of the applicants have been found to be infected with venereal disease, or have not been found to be free from syphilis, the judge of the district court in the county in which the license is to be issued shall nevertheless be authorized and empowered on application of both parties to such marriage to order the probate judge to issue the license. . . . All proceedings instituted under the provisions of this section shall be confidential and private, except as hereinafter provided. . . .

Same, Records of Proceedings. G. S. 1949, 23-308. Certificates, laboratory statements or reports, applications and court orders, files and records, in this act referred to and the information therein contained, other than the marriage license and the application therefor, shall be confidential and shall not be divulged to or open to inspection by any person other than state or local health officers or their duly authorized representatives, except by written permission of the party or parties affected. . . .

Grand Juries.

Disclosure of Information Unlawful. G. S. 1949, 62-924. No member of a grand jury shall be obliged or allowed to testify or declare in what manner he or any other member of the grand jury voted on any question before them, or what opinions were expressed by any juror in relation to any such question.

Same. G. S. 1949, 62-925. No grand juror shall disclose any evidence given before the grand jury, nor the name of any witness who appeared before them, except when lawfully required to testify as a witness in relation thereto; nor shall he disclose the fact of any indictment having been found against any person for felony, not in actual confinement, until the defendant shall have been arrested thereon.

Indictments and Informations.

Secrecy. G. S. 1949, 62-1020. Indictments and informations against persons not in custody, or who have not given bail, and the records of such indictments and informations as are in the custody of the clerk, shall not be inspected by any person except the court, the clerk and his deputy, and the prosecuting attorney, until after the arrest of the defendant.

Probate Court.

Adoption Proceedings. G. S. 1949, 59-2279. The files and records of the court in adoption proceedings shall not be open to inspection or copy by other persons than the parties in interest and their attorneys, and representatives of the state department of social welfare, except upon an order of the court expressly permitting the same.

Examples of Public Hearings From General Statutes 1949

State Level

- 18-202. Petition for change of county boundaries.
- 2-1905. Formation of soil conservation district.
- 2-1916. Discontinuance of soil conservation district.
- 44-617. Industrial welfare investigations.
- 65-418. Hospital construction and administration.
- 65-2335. Petition of shortage of flour enriching ingredients.
- 75-3011a. Appropriations requested by state departments.

County Level

- 19-2724. Petition for street lights without city limits.
- 19-2736. Organisation of sewer district for township of 5000 or more.
- 19-2740. Enlarging main sewer district or creating.
- 19-2755. Petition for public improvement districts in counties over 110,000.
- 19-2784. Same; enlargement of boundaries.
- 19-2916a. Master Planning and Zoning plan counties 15-25,000.
- 19-2920. Petition for boundaries of Zoning Districts.
- 24-404. Petition for formation of drainage district, without cities.
- 24-465. Same; where 3/5 of land owned by non-residents.
- 24-482. Same; counties between 25-130,000.
- 24-498. Petition for detachment of certain land of drainage district.
- 24-502. Petition for formation of drainage in valley of watercourse.
- 67-613. Petition for vacation of platted lands.
- 68-1162. Tax levies on roads and bridges.
- 68-1410a. Written objections to reconstruction of bridges counties over \$110,000,000.

City Level

General.

- 12-501. Petition to enlarge boundaries.
- 12-524. Petition for vacation of site or addition.
- 12-634. Appraisement of change in street grade, 2nd and 3rd class cities.
- 12-640. Appraisers report on assessment of damages for flood protection improvement.
- 12-649. County resolution for benefit district for public improvement, cities under 65,000.
- 12-658. Petition for special street lighting, 1st and 2nd class cities.
- 12-708. Planning and zoning district boundaries and regulations.
- 79-2929. Objections of taxpayers to proposed budget.

First Class Cities.

- 13-600. Street paving assessment.
- 13-788. Removal of Fire Department officer, cities 13-16,000.
- 13-1034. Resolution of public improvement benefit district, cities under 80,000.
- 13-1021. Appraisement of street grade.
- 13-10102. Surfacing of road by sand, gravel, cinders, crushed rock.
- 13-1109. Master city plan, cities over 60,000.
- 13-1111. Same, adoption of sub-division rules and regulations.

- 13-1328. Special park improvement assessment, cities over 65,000.
- 13-1370. Creation of new parks and playgrounds, cities over 120,000.
- 13-2115. Ordinance for public improvement, cities between 20-30,000.
- 13-2529. Special assessment for park improvement, commission cities over 60,000.

Second Class Cities.

- 14-532. Special lighting systems petition.
- 14-701b. Assessment levy on watercourse improvements benefit district.

Third Class Cities.

- 15-11a02. Petition for enlargement of boundaries.

Township.

- 80-1512. Creation of fire protection district.

Common and Rural High School Districts.

- 79-2931. Annual budget.

APPENDIX "B"

QUESTIONNAIRE TABULATIONS AND INFORMATION

State Agency Questionnaire

Dr. Guild, Director, Research Department, Kansas Legislative Council, wrote to each of the state administrative and regulatory agencies on December 4, 1953, asking for information as to practices in admitting the public and press to their respective proceedings. The answers which Dr. Guild received from his query were used for this report.

Since the questions were general, and the answers even more so, no accurate tabulation can be made of the results. Hence, all that is included in this section is a reproduction of the body of Dr. Guild's letter, and a list of the answering agencies.

Dr. Guild's letter.

As you may know, the Legislative Council has under consideration Proposal No. 13, relating to the possibility of requiring that all, or certain types of meetings and hearings of state administrative agencies be open to the public and the press. The committee on federal, state and local government has instructed the research department to prepare a report on the practices of state departments and agencies in these matters. It would be helpful to the council if you would provide us with a brief resume of the actual practices of your agency, particularly as regards the following questions:

Do you admit the public or the press to some or all of your hearings? Some or all of your board or commission meetings?

Is your practice governed by statutory provisions, regulations, court decisions, custom, or administrative determination?

Do you make any distinction, as regards the attendance of the public and press, between meetings dealing purely with intra-departmental affairs and those in which public policies are determined?

In case of the absence of any formal departmental policy in regard to these matters, is it the practice to admit any citizen or any representative of the press to hearings and/or meetings?

What kind of notice, if any, is provided prior to meetings and hearings?

Since the need for meetings, and the type of meetings appear to vary among state agencies, we would appreciate an interpretation of the above general questions which would give the committee an accurate impression of

your particular situation.

The committee plans to hold an interim meeting in January to discuss these matters. If we could have your reply within the next two weeks, it would give us sufficient time to prepare material for the committee's use.

State Departments, Agencies, Boards, Commissions Replying.

1. Accountancy, Board of
2. Abstracters' Board of Examiners
3. Administration, Department of
4. Administration, Department of; Personnel Division
5. Agriculture, Board of
6. Alcoholic Beverage Control
7. Alcoholic Beverage Control, Board of Review
8. Anti-Discrimination Commission
9. Architect, State
10. Architects, Board of Registration and Examining
11. Assessment Equalization, Citizens Commission on
12. Athletic Commission
13. Attorney General
14. Auditor, State
15. Bank Commissioner
16. Barber Examiners, Board of
17. Brand Commissioner
18. Chiropractic Examiners, Board of
19. Civil Defense, Office of
20. Corporation Commission
21. Crippled Children Commission
22. Dental Board
23. Embalming, Board of
24. Employment Security Division
25. Engineering Examiners, Board of
26. Entomological Commission
27. Fire Marshall, State
28. Forestry, Fish and Game Commission
29. Grain Inspection and Weighing Department
30. Health, Board of
31. Highway Commission
32. Highway Patrol
33. Historical Society
34. Horticultural Society
35. Hotel and Restaurant Board
36. Industrial Development Commission
37. Investigation, Kansas Bureau of
38. Insurance Commissioner
39. Labor Commissioner
40. Librarian, State
41. Livestock Commission
42. Medical Registration and Examination
43. Mine Examining Board

44. Motor Vehicle Reciprocity Commission
45. Nurse Registration and Nursing Education
46. Penal Institutions, Board of
47. Pharmacy, Board of
48. Port of Entry Board
49. Printer, State
50. Public Instruction, State Superintendent
51. Real Estate Commission
52. Regents, Board of
53. Revenue and Taxation, Commission of
54. Savings and Loan Commissioner
55. School Retirement Board
56. Secretary of State
57. Soil Conservation Committee
58. State Fair
59. Turnpike Authority
60. Veterans' Commission
61. Workmen's Compensation Commissioner

County Government Questionnaire

From the original questionnaire of February 6, 1954, there were 48 returns of the 105 counties queried. The percentage of return was thus 46%. The 48 counties are listed on page 144 below.

The covering letter and questionnaire will be found on pages 145 and 147, while a complete breakdown of results appears on page 149.

In the breakdown it will be noted that two additional categories are set out beside the overall total. The column labeled "With Daily" carries the results from those counties in which daily newspapers are located. The column "With Radio/TV" is for question eleven only, which asks whether broadcasting or telecasting is allowed in meetings. Nineteen of the reporting counties have daily newspapers within their borders. Nine have radio or television stations.

Certain questions have been eliminated. Question one and two are for identification and not included. Question seven, the reference to quasi-judicial deliberative sessions, was not generally understood and so not

considered.

The opinion questions of 10, 12, and 19 were recorded in the "Supplementary Questionnaire," and will be found below under that heading.

Counties Reporting.

- | | |
|-----------------|--------------------|
| 1. Atchison | 25. Logan |
| 2. Barber | 26. Marshall |
| 3. Cherokee | 27. McPherson |
| 4. Cheyenne | 28. Miami |
| 5. Clark | 29. Mitchell |
| 6. Clay | 30. Morris |
| 7. Cloud | 31. Neosho |
| 8. Coffey | 32. Ness |
| 9. Cowley | 33. Norton |
| 10. Decatur | 34. Osborne |
| 11. Dickinson | 35. Pottawatomie |
| 12. Doniphan | 36. Pratt |
| 13. Douglas | 37. Rawlins |
| 14. Ellsworth | 38. Reno |
| 15. Franklin | 39. Riley |
| 16. Grant | 40. Rush |
| 17. Greeley | 41. Scott |
| 18. Hamilton | 42. Smith |
| 19. Johnson | 43. Stevens |
| 20. Kearney | 44. Wabaunsee |
| 21. Kiowa | 45. Wichita |
| 22. Lane | 46. Wilson |
| 23. Leavenworth | 47. Woodson |
| 24. Lincoln | 48. Not Identified |

County Government Letter

6 February 1954

Dear County Clerk:

There has been much discussion of late on the question: "The People's Right to Know," in Kansas and around the nation. Even now there is a proposal before the Kansas Legislative Council that legislation be offered to the next session of the Legislature, making it mandatory that all or certain government meetings, on the state and local level, be open to the public and the press.

With the approval and guidance of the Kansas State College Graduate School, I am preparing a thesis: "Freedom of Information in the State and Local Governments of Kansas." When completed, it will be submitted for a masters degree in Government, and then forwarded to the Kansas Legislative Council for their use in consideration of "Proposal 13".

Indispensable to such research, of course, are the experiences and opinions of our county administrative leaders. This questionnaire is sent to you for the purpose of getting that information.

Every attempt was made to reduce it to manageable size. But, as you can imagine on such a complex question, the final draft was not nearly so short as had been wished. Nevertheless, it is hoped that you will give a generous amount of consideration to the answers, bearing in mind the citizens' stake in government; the benefits which they may gain from "knowing", or the possible "ill effects" to them from having certain information made public.

Some definitions are necessary for uniform interpretation:

PRESS - Representatives of newspapers, radio stations or television stations:

PUBLIC MEETINGS - Government meetings which are open to the public and "press";

REGULAR MEETINGS - Government meetings which are regularly scheduled by statute, ordinance or practice, in which the routine and general business of the organization is taken up. Included also are "special" meetings for which public notice is given of their occurrence;

EXECUTIVE SESSIONS - Meetings from which the "press" and public are excluded in order that the participants may discuss matters which they feel should not be made public;

JUDICIAL or QUASI-JUDICIAL - Meetings of a judicial body, or of an agency holding, by statute, the power to make legal decisions on the application of federal, state or local law, in which actual deliberations on the case take place;

PRIVILEGED RECORDS - Those records which, by statute or common law, are exempt from inspection by the "press" and public, in the public interest.

Questions 10, 12, 14 and 19 are of opinion, while the others are of practice. If you do not wish to express a definite opinion, simply write "no comment" across the question. In either case, you may give your observations about the particular item involved, on the blank sheet attached.

Thank you for your cooperation. I am hoping to receive your completed questionnaire very soon in the enclosed envelope.

Sincerely,

(Signed) Howard D. Neighbor

Howard D. Neighbor

County Government Questionnaire

1. County reporting: _____.
2. Name and title of returner: _____.
3. Approximate percentage of "public" meetings attended by the "press"? ____.
(Answer following questions "yes" or "no". Where applicable, include brief comment on blank sheet attached, identifying remarks with the number of the question.)
4. Have members of the "press" ever violated your trust by releasing "off-the-record" material of any branch of county government, received in a meeting which they were allowed to attend? _____. (If "yes", give brief explanation.)
5. Are they allowed to attend all "regular" meetings of every branch of county government? _____. If "no", what meetings may they not attend? (list on blank sheet)
6. Do you hold "executive sessions" in any branch of county government? ____
7. Are members of the "press" admitted to deliberative sessions of any "judicial" or "quasi-judicial" body of county government? _____. (If "yes", explain briefly.)
8. Are there meetings from which you do not actually exclude members of the "press", but which you request them not to attend? ____.
9. Do you allow the "press" to attend certain "non-public" meetings, but ask that they withhold confidential information received? ____.
(If "yes", explain briefly.)
10. Do you favor state legislation requiring that: (check one and include comment)
 (a) All government meetings be open to the "press"? _____.
 (b) All except "judicial" or "quasi-judicial" meetings open to "press"? _____.
 (c) Only "regular" meetings open to the "press"? _____.
 (d) No government meetings regularly open to the "press"? _____.
11. Do you allow any "public" county government meetings to be broadcast or telecast? _____. (If "yes", explain briefly.)
12. Do you favor state legislation requiring that: (check one and include comment)
 (a) All "public" meetings be open for both broadcasting and telecasting? _____.
 (b) All "public" meetings open for only broadcasting? _____.
 (c) Neither broadcasting nor telecasting allowed in any "public" meeting? _____.

13. Do you provide formal notice to the "press" for all "public" meetings? ____.
14. Are you in favor of state legislation making it mandatory that formal notice be given prior to the holding of any "public" meeting? ____.
(include comment)
15. Have members of the "press" ever violated your trust by releasing confidential material received in the examination of records of any branch of county government? _____. (if "yes", explain briefly.)
16. Do you allow the "press" to enter all "non-privileged" records of every branch of county government? ____.
17. Are there certain records to which the press is not allowed access because of a "privileged" status? _____. (list records)
18. Are there certain records that the "press" is allowed to enter, but in which you request that the information be withheld from the public? ____.
19. Do you favor state legislation requiring that: (check one and include comment)
 - (a) All government records be open to the examination of the "press"? ____.
 - (b) All except "privileged" records open to the "press"? ____.
 - (c) No government records open to the "press"? ____.

Table 1. County Government Questionnaire tabulations.

	Total	With Daily	With Radio/TV
3. %	27	52	
4. Yes:	3	2	
No:	43	17	
5. Yes:	45	19	
No:	0	0	
6. Yes:	19	9	
No:	26	8	
8. Yes:	2		
No:	43		
9. Yes:	10		
No:	30		
11. Yes:			1
No:			2
13. Yes:	11	4	
No:	35	14	
14. Yes:	9	1	
No:	27	14	
15. Yes:	2		
No:	39		
16. Yes:	25	8	
No:	16	8	
17. Yes:	31	11	
No:	10	5	
18. Yes:	5		
No:	37		

City Government Questionnaire

The original City Government Questionnaire returned 36%, with 105 out of 303 cities answering. Cities with populations over 15,000 returned at 61% with 8 of 13. In the population class 5,000 to 15,000, the return was nearly as good. Out of 22 questionnaires mailed, 13 were returned for 59%. There was a sharp drop to 40% for those cities between 2,000 and 5,000, as 22 of 55 reported. Another sharp drop occurred among cities below 2,000 population. From the 213 queries, 44 replied for 20%. On pages 151 and 152 below, a list of returning cities appears.

The breakdown, which is on page 156, is divided into eight categories. The first column contains total figures; the second show returns for cities over 15,000; the third column is for cities between 5,000 and 15,000; the fourth for cities from 2,000 to 5,000; and the fifth column contains returns for cities below 2,000 population. City Manager cities are represented in column six, and in column seven appears the return from the 27 cities having daily newspapers. Column eight, "With Radio/TV" is for question eleven only, where the answers from the 15 cities in which radio or television stations are located.

Information questions one through three are eliminated. Question seven has been taken out because of confusion, and questions 10, 12, and 19 appear in the "Supplementary Questionnaire" below. In question nine, just those cities admitting that executive sessions are held, are polled.

The complete questionnaire and governing letter appear on pages 153 and 155.

Cities Returning by Population.

Over 15,000.

1. Coffeyville
2. Emporia
3. Hutchinson
4. Leavenworth
5. Manhattan
6. Pittsburg
7. Salina
8. Topeka

2000-5000 cont.

18. Oberlin
19. Osage City
20. Oswego
21. Sabetha
22. Ulysses

Under 2000.

5000-15,000.

1. Chanute
2. Dodge City
3. Garden City
4. Great Bend
5. Hays
6. Independence
7. Iola
8. Junction City
9. McPherson
10. Newton
11. Olathe
12. Ottawa
13. Wellington

1. Altamont
2. Alta Vista
3. Altona
4. Belle Plaine
5. Bird City
6. Blue Rapids
7. Bucklin
8. Burlingame
9. Burns
10. Burr Oak
11. Cawker City
12. Chapman
13. Clifton
14. Courtland
15. Dighton
16. Douglass
17. Downs
18. Effingham
19. Florence
20. Frankfort
21. Gardner
22. Geneseo
23. Greensburg
24. Hanover
25. Hardtner
26. Harveyville
27. Hoxie
28. Iakin
29. Icoti
30. Linn
31. Logan
32. Longton
33. Lucas
34. Lyndon
35. Marysville
36. Minneapolis

2000-5000

1. Baxter Springs
2. Beloit
3. Burlington
4. Caldwell
5. Columbus
6. Council Grove
7. Ellis
8. Ellsworth
9. Galena
10. Goodland
11. Herington
12. Hiawatha
13. Hillsboro
14. Holsington
15. Humboldt
16. Hindsberg
17. Macksville

Under 2000 cont.

37. Mound City
38. Moundridge
39. Mallinville
40. Ness City
41. Hickerson
42. Oskaloosa
43. Oxford
44. Phillipsburg
45. Iotwin
46. Robinson
47. Roseville
48. Saint Francis
49. Sedgwick
50. Sharon Springs
51. South Haven
52. St. John
53. Stockton
54. Sublette
55. Syracuse
56. Valley Center
57. Washington
58. Waterville
59. Westmoreland
60. White City
61. Wilson

City Government Letter

6 February 1954

Dear Mayor:

There has been much discussion of late on the question: "The People's Right to Know," in Kansas and around the nation. Even now there is a proposal before the Kansas Legislative Council that legislation be offered to the next session of the Legislature, making it mandatory that all or certain government meetings, on the state and local level, be open to the public and the press.

With the approval and guidance of the Kansas State College Graduate School, I am preparing a thesis: "Freedom of Information in the State and Local Governments of Kansas." When completed, it will be submitted for a masters degree in Government, and then forwarded to the Kansas Legislative Council for their use in consideration of "Proposal 13".

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Questions 10, 12, 14 and 19 are of opinion, while the others are of practice. If you do not wish to express a definite opinion, simply write "no comment" across the question. In either case, you may give your observations on the item involved on the blank sheet attached.

Thank you for your cooperation. I am hoping to receive your completed questionnaire very soon in the enclosed envelope.

Sincerely,

(Signed) Howard B. Neighbor

Howard B. Neighbor

City Government Questionnaire

1. City reporting: _____; Type government: _____.
2. Name and title of returner: _____.
3. Approximate percentage of "public" meetings attended by "press": _____.
(Answer following questions "yes" or "no". Where applicable, include brief comment on blank sheet attached, identifying remarks with the number of the question.)
4. Have members of the "press" ever violated your trust by releasing "off-the-record" material of any branch of city government, received in a meeting which they were allowed to attend? _____. (If "yes", give brief explanation.)
5. Are they allowed to attend all "regular" meetings of every branch of city government? _____. If "no", what meetings may they not attend? (List on blank sheet)
6. Do you hold "executive sessions" in any branch of city government? _____.
7. Are members of the "press" admitted to ~~deliberative~~ sessions of any "judicial" or "quasi-judicial" body of city government? _____. (If "yes", explain briefly)
8. Are there meetings from which you do not actually exclude members of the "press", but which you request them not to attend? _____.
9. Do you allow the "press" to attend certain "non-public" meetings, but ask that they withhold confidential information received? _____. (If "yes", explain briefly.)
10. Do you favor state legislation requiring that: (check one and include comment)
 (a) All government meetings be open to the "press"? _____.
 (b) All except "judicial" or "quasi-judicial" meetings open to the "press"? _____.
 (c) Only "regular" meetings open to the "press"? _____.
 (d) No government meetings regularly open to the "press"? _____.
11. Do you allow any "public" meetings to be broadcast or telecast? _____. (If "yes", explain briefly.)
12. Do you favor state legislation requiring that: (check one and include comment)
 (a) All "public" meetings be open for both broadcasting and telecasting? _____.
 (b) All "public" meetings open for only broadcasting? _____.

(c) Neither broadcasting nor telecasting allowed in any "public" meeting? ____.

13. Do you provide formal notice to the "press" for all "public" meetings? ____.
14. Are you in favor of state legislation making it mandatory that formal notice be given prior to the holding of any "public" meeting? ____.
(include comment)
15. Have members of the "press" ever violated your trust by releasing confidential material of any branch of city government, received from city records which they were allowed to examine? _____. (If "yes", explain briefly.)
16. Do you allow the "press" to enter all "non-privileged" records of every branch of city government? ____.
17. Are there certain records to which the "press" is not allowed access because of a "privileged" status? _____. (list records)
18. Are there certain records that the "press" is allowed to enter, but in which you request that the information be withheld from the public? ____.
19. Do you favor state legislation requiring that: (check one and include comment)
 - (a) All government records be open to the examination of the "press"? ____.
 - (b) All except "privileged" records open to the "press"? ____.
 - (c) No government records open to the "press"? ____.

Table 2. City Government Questionnaire Tabulations.

	Total	Over \$15000	\$5000- \$15000	\$2000- \$5000	Under \$2000	City Mgr.	With Daily	With Radio/TV
3. %	52	98	74	60	35	70	70	
4. Yes:	3	1	1	1	0	1	1	
No:	100	6	12	20	61	12	24	
5. Yes:	101	8	13	21	59	14	27	
No:	3	0	0	0	3	0	0	
6. Yes:	37	4	9	11	13	6	13	
No:	63	4	4	10	45	7	13	
8. Yes:	5							
No:	96							
9. Yes:	15							
No:	18							
11. Yes:								5
No:								4
13. Yes:	16	4	2	6	4	3	7	
No:	83	4	11	15	53	10	7	
14. Yes:	25	2	2	6	15	3	5	
No:	65	5	8	14	38	8	17	
15. Yes:	1							
No:	100							
16. Yes:	82	7	12	18	45	12	25	
No:	13	1	1	0	11	1	2	
17. Yes:	4	1	2	0	1	2	3	
No:	93	7	2	19	58	11	22	
18. Yes:	15							
No:	84							

School Government Questionnaire

School system representatives returned the highest percentage of any of the five groups questioned. With 171 replies from the 295 queries, a mark of 58% was achieved. Highest among the school representatives, were those from cities in the population class 2000 to 5000. The group returned 39 of 54 for 72%. Those from cities 15,000 or over produced 7 answers from 13 for 53%, while the percentage in the 5000 to 15,000 class was exactly 50; 11 of 22. Lowest was the group of school representatives from cities under 2000 population. Of 236 questionnaires mailed, 114 were returned for 44%. The list of school systems replying is on pages 151 to 160.

The questionnaire itself, along with the covering letter, appears on pages 161 to 164. The breakdown is on page 165 below.

Eliminated from the breakdown are question one through three --- identification information --- and the opinion questions of 10, 12, and 19. The recorded opinion questions will be found under "School Systems" in the section on the Supplementary Questionnaire.

School Systems: Cities Where Located by Population.

Over 15000.

1. Atchison
2. Coffeyville
3. Leavenworth
4. Manhattan
5. Parsons
6. Salina
7. Wichita

5000 to 15000.

1. Chamute
2. Dodge City
3. El Dorado
4. Fort Scott
5. Junction City
6. Liberal
7. McPherson
8. Newton
9. Olathe
10. Ottawa
11. Wellington

2000 to 5000.

1. Anthony
2. Bonner Springs
3. Caney
4. Cherryvale
5. Columbus
6. Council Grove
7. Ellinwood
8. Ellsworth
9. Eureka
10. Fredonia
11. Girard
12. Goodland
13. Herington
14. Hiawatha
15. Hillsboro
16. Hoisington
17. Holton
18. Horton
19. Humboldt
20. Kingman
21. Larned
22. Lindsborg
23. Lyons
24. Marion
25. Marysville
26. Medicine Lodge
27. Neodesha
28. Norton
29. Oberlin
30. Osawatomie
31. Osborne
32. Paola
33. Plainville
34. Sabatha
35. Seneca
36. Smith Center
37. Stafford
38. Sterling
39. Ulysses

Under 2000

1. Alma
2. Altamont
3. Altoona
4. Atwood
5. Belle Plaine
6. Bucklin

Under 2000 cont.

7. Burlingame
8. Burns
9. Burrton
10. Canton
11. Cedar Vale
12. Centralia
13. Chapman
14. Chase
15. Cheney
16. Clyde
17. Cherokee
18. Chetopa
19. Cimarron
20. Clifton
21. Coldwater
22. Delphos
23. Dighton
24. Douglass
25. Elk City
26. Elkhart
27. Enterprise
28. Erie
29. Esbon
30. Eskridge
31. Eudora
32. Everest
33. Fairview
34. Fall River
35. Florence
36. Fowler
37. Frankfort
38. Geneseo
39. Glen Elder
40. Gove
41. Greenleaf
42. Greensburg
43. Halstead
44. Hamilton
45. Hanover
46. Hesston
47. Highland
48. Hill City
49. Holyrood
50. Hoxie
51. Jamestown
52. Kensington
53. Kiowa
54. La Cygne
55. Lakin

Under 2000 cont.

- 56. Lebanon
- 57. Lenora
- 58. Leonardville
- 59. Le Roy
- 60. Lewis
- 61. Logan
- 62. Longton
- 63. Louisburg
- 64. Madison
- 65. Mankato
- 66. McDonald
- 67. Miltonvale
- 68. Minneapolis
- 69. Minneola
- 70. Moline
- 71. Moundridge
- 72. Mulberry
- 73. Mullinville
- 74. Mulvane
- 75. Nickerson
- 76. Nortonville
- 77. Oakley
- 78. Omega
- 79. Overbrook
- 80. Oxford
- 81. Phillipsburg
- 82. Pleasanton
- 83. Protection
- 84. Pretty Prairie
- 85. Robinson
- 86. Satanta
- 87. Savonburg
- 88. Sawyer
- 89. Sedan
- 90. Sedgwick
- 91. Selden
- 92. Sharon Springs
- 93. Solomon
- 94. Spring Hill
- 95. St. Francis
- 96. St. John
- 97. Stockton
- 98. St. Paul
- 99. Sublette

Under 200 cont.

- 100. Syracuse
- 101. Tonganoxie
- 102. Towanda
- 103. Tribune
- 104. Turon
- 105. Valley Center
- 106. Wakefield
- 107. Wanego
- 108. Waterville
- 109. Waverly
- 110. White City
- 111. Whitewater
- 112. Wilson
- 113. Winchester
- 114. Winona

School Government Letter

25 February 1954

Dear School Superintendent:

There has been much discussion of late on the question: "The People's Right to Know," in Kansas and around the nation. Even now there is a proposal before the Kansas Legislative Council that legislation be offered to the next session of the legislature, making it mandatory that all or certain government meetings, on the state and local level, be open to the public and the press.

With the approval and guidance of the Kansas State College Graduate School, I am preparing a thesis: "Freedom of Information in the State and Local Governments of Kansas." When completed, it will be submitted for a masters degree in Government, and then forwarded to the Kansas Legislative Council for their use in consideration of "Proposal 13".

Indispensable to such research, of course, are the experiences and opinions of our school administrative leaders. This questionnaire is sent to you for the purpose of getting that information.

Every attempt was made to reduce it to manageable size. But, as you can imagine on such a complex question, the final draft was not nearly so short as had been wished. Nevertheless, it is hoped that you will give a generous amount of consideration to the answers, bearing in mind the citizen's stake in the school system; the benefits which they may gain from "knowing", or the possible "ill effects" to them from having certain information made public.

Some definitions are necessary for uniform interpretation:

PRESS - Representatives of newspapers, radio stations or television stations;

PUBLIC MEETINGS - School Board meetings which are open to the public and "press";

REGULAR MEETINGS - A School Board meeting regularly scheduled by statute, or regulation, in which the routine and general business of the board is taken up. Included also are "special" meetings for which public notice is given;

EXECUTIVE SESSIONS - Meetings from which the "press" and public are excluded in order that the board may handle matters which they feel should not be made public;

PRIVILEGED RECORDS - Those records which, by statute or common law, are exempt from inspection by the "press" and public, in the public interest.

Questions 10, 12, 14, and 19 are of opinion, while the others are of practice. If you do not wish to express a definite opinion, simply write "no comment" across the question. In either case, you may give your observations on the item involved on the blank sheet attached. If you do not wish to have your comments quoted, please indicate as much.

Thank you for your cooperation. I am hoping to receive your completed questionnaire very soon in the enclosed envelope.

Sincerely,

(Signed) Howard D. Neighbor

Howard D. Neighbor

School Government Questionnaire

1. Name and title of returner: _____.
 2. Name of school system: _____.
 3. County in which located: _____.
 4. Approximate percentage of board "public meetings" attended by "press": _____.
- (Answer following questions "yes" or "no". Where applicable, include brief comment on blank sheet attached, identifying remarks with number of question.)
5. Have members of the "press" ever violated your trust by releasing "off-the-record" school board material, received in a meeting which they were allowed to attend? _____. (If "yes", give brief explanation.)
 6. Are they allowed to attend all "regular" meetings of the school board? _____. If "no", what meetings may they not attend? (List on blank sheet.)
 7. Does the school board hold "executive sessions" in connection with any of its meetings? _____.
 8. Are there meetings from which you do not actually exclude members of the "press" but which you request them not to attend? _____.
 9. Do you allow the "press" to attend certain "non-public" meetings, but ask that they withhold confidential information received? _____. (If "yes", explain.)
 10. Do you favor state legislation requiring that: (check one and include comment)
 - (a) All school board meetings be open to the "press"? _____.
 - (b) Only "regular" meetings open to the "press"? _____.
 - (c) No school board meetings regularly open to the "press"? _____.
 11. Do you allow any "public meetings" to be broadcast or telecast? _____.
 12. Do you favor state legislation requiring that: (check one and include comment)
 - (a) All "public meetings" open for both broadcasting and telecasting? _____.
 - (b) All "public meetings" open for only broadcasting? _____.
 - (c) Neither broadcasting nor telecasting allowed in any "public meeting"? _____.
 13. Do you provide formal notice to the "press" for all "public meetings"? _____.

14. Are you in favor of state legislation making it mandatory that formal notices be given prior to the holding of any "public meeting"? _____.
(include comment)
15. Have members of the "press" ever violated your trust by releasing confidential material from school board records which they were allowed to examine? _____. (If "yes", explain briefly.)
16. Do you allow the "press" to enter all "non-privileged" records of the school board? _____.
17. Are there certain records to which the "press" is not allowed access because of a "privileged" status? _____. (list records)
18. Are there certain records that the "press" is allowed to enter, but in which you request that the information be withheld from the public?
_____.
19. Do you favor state legislation requiring that: (check one and include comment)
 (a) All school board records be open to the examination of the "press"? _____.
 (b) All except "privileged" records open to the "press"? _____.
 (c) No school board records open to the "press"? _____.

Table 3. School Government Questionnaire Tabulations.

	Total	:Over :15000	:5000- :15000	:2000- :5000	:Under :2000	:With :Daily	:With :Radio/TV
4. %	11	82	44	12	4	42	
5. Yes:	2	0	0	0	2	0	
No:	150	5	10	29	106	25	
6. Yes:	144	6	10	30	99	26	
No:	4	0	0	0	4	0	
7. Yes:	60	2	4	8	46	6	
No:	99	4	7	23	65	21	
8. Yes:	12						
No:	146						
9. Yes:	20						
No:	117						
11. Yes:							2
No:							22
13. Yes:	44	2	4	8	30	7	
No:	119	4	6	21	88	18	
14. Yes:	41	0	2	5	34	3	
No:	112	6	7	25	74	19	
15. Yes:	3						
No:	160						
16. Yes:	62	3	7	9	43	15	
No:	60	1	1	11	47	2	
17. Yes:	43	1	3	11	29	7	
No:	97	5	7	15	60	16	
18. Yes:	26						
No:	119						

Newspaper Questionnaire

On the twenty-eighth of January, 1954, 350 questionnaires were sent to newspapers throughout the state of Kansas — 53 dailies and 297 weeklies, bi-weeklies and tri-weeklies. By the first of April 1954, 87 had been returned for a percentage of 25%. Of the dailies, 19 were returned for 36%. The weeklies, bi-weeklies and tri-weeklies returned 22%. A complete list of those returning the Newspaper Questionnaire of 28, January 1954, appears on page 166 to 168 below.

On pages 169 to 172 below are the questionnaire and the covering letter as sent out. Page 173 contains a complete breakdown of the questions as answered.

Questions one through eight were for the purpose of identification and background information and are omitted in the breakdown. Question eleven is also omitted because it apparently was confusing to the returners and offered no dependable results.

Because the opportunity to answer "No legislation necessary" was not included on the opinion questions of 14 and 19, it was necessary to send a supplementary questionnaire in order that accurate results could be obtained. The breakdown of newspaper answers to this appears under the separate heading below: "Supplementary Questionnaire".

Questions 14 and 19 are omitted in the breakdown on page 173. In all questions, "state" has been eliminated from the tabulations. There were not enough newspapers that had experience with "state" meetings to provide an accurate survey.

Newspaper Returning.**Dailies.**

1. Abilene Daily Reflector-Chronicle, Abilene
2. Augusta Daily Gazette, Augusta
3. Beloit Daily Call, Beloit
4. Coffeyville Journal, Coffeyville
5. Daily Republican, Burlington
6. Daily Tiller and Toiler, Iarned
7. Dodge City Daily Globe, Dodge City
8. El Dorado Times, El Dorado
9. Fredonia Daily Herald, Fredonia
10. Fort Scott Tribune, Fort Scott
11. Garden City Telegram, Garden City
12. Great Bend Daily Tribune, Great Bend
13. Hays Daily News, Hays
14. Iola Register, Iola
15. Kansas City Star, Kansas City, Missouri
16. Lyons Daily News, Lyons
17. Manhattan Mercury-Chronicle, Manhattan
18. Russell Daily News, Russell
19. Winfield Courier, Winfield

Tri-Weekly.

1. Wellington Monitor-Press, Wellington

Bi-Weekly.

1. Junction City Republic, Junction City
2. Russell Record, Russell
3. St. John News-St. John Capital, St. John

Weekly.

1. Advertiser-Times, Herington
2. Allen County News Journal, Iola
3. Almena Plaindealer, Almena
4. Altamont Journal, Altamont
5. Belleville Telescope, Belleville
6. Cheney Sentinel, Cheney
7. Artell Standard, Artell
8. Citizen-Patriot, Atwood
9. Dighton Herald, Dighton
10. Douglass Tribune, Douglass
11. Ellinwood Leader, Ellinwood

Weekly cent.

- | | |
|---|---------------------------|
| 12. Ellis Review, Ellis | 62. Western Spirit, Paola |
| 13. Ellsworth Messenger, Ellsworth | 63. Wilson World, Wilson |
| 14. Ellsworth Reporter, Ellsworth | 64. Ulysses News, Ulysses |
| 15. Enterprise-Chronicle, Burlingame | |
| 16. Girard Press, Girard | |
| 17. Gove County Advocate, Quinter | |
| 18. Groesby County Republican, Tribune | |
| 19. Hill City Times, Hill City | |
| 20. Hillsboro Star-Journal, Hillsboro | |
| 21. Hoisington Dispatch, Hoisington | |
| 22. Hope Dispatch, Hope | |
| 23. Humboldt Union, Humboldt | |
| 24. Independence News, Independence | |
| 25. Jennings Journal, Jennings | |
| 26. Johnson County Herald, Overland Park | |
| 27. Kinsley Mercury, Kinsley | |
| 28. Kiowa News, Kiowa | |
| 29. Lakin Independent, Lakin | |
| 30. Lawrence Outlook, Lawrence | |
| 31. Lebanon Times, Lebanon | |
| 32. Leonardville Monitor-Regent, Leonardville | |
| 33. Louisburg Herald, Louisburg | |
| 34. Madison News, Madison | |
| 35. McCune Herald, McCune | |
| 36. Meade Globe-News, Meade | |
| 37. Miami Republican, Paola | |
| 38. Minneapolis Messenger, Minneapolis | |
| 39. Modern Light, Columbus | |
| 40. Mound City Republic, Mound City | |
| 41. Natoma-Luray Independent, Natoma | |
| 42. Neodesha Register, Neodesha | |
| 43. News Chronicle, Scott City | |
| 44. Oswego Democrat, Oswego | |
| 45. Oswego Independent, Oswego | |
| 46. Overbrook Citizen, Overbrook | |
| 47. People's Herald, Lyndon | |
| 48. Phillipsburg Review, Phillipsburg | |
| 49. Plainville Times, Plainville | |
| 50. Rush County News, LaCrosse | |
| 51. Signal-Enterprise, Alma | |
| 52. Soldier Clipper, Soldier | |
| 53. South Haven New Era, South Haven | |
| 54. Stafford Courier, Stafford | |
| 55. Sterling Bulletin, Sterling | |
| 56. St. Marys Star, St. Marys | |
| 57. Thayer News, Thayer | |
| 58. Wakefield News, Wakefield | |
| 59. Waterville Telegraph, Waterville | |
| 60. Wellsville Globe, Wellsville | |
| 61. Western Butler County Times, Towanda | |

Memorandum Letter

28 January 1954

Dear Editor:

There has been much discussion of late on the subject, "The People's Right to Know", in Kansas and around the nation. Various organizations have conducted national studies on the question, the most outstanding of which is Dr. Harold Cross's book, The People's Right to Know.

As far as I know, no complete study has been attempted in Kansas. Yet, there is now a proposal before the Kansas Legislative Council that legislation be offered to the next session of the Legislature making it mandatory that all, or certain meetings of the state, county and city governments, be open to the public and the press.

With the approval of the Kansas State College Graduate School, I am preparing a thesis on, "Freedom of Information in the State and Local Governments of Kansas". When completed, it will be submitted toward a masters degree, and then forwarded to the Kansas Legislative Council for their use in consideration of "proposal 13".

Indispensable to such research, of course, are the opinions of the newspaper editors throughout the state. The enclosed questionnaire is submitted to you for the purpose of getting these opinions.

Every attempt was made to reduce it to manageable size. But, as you can imagine on such a complex question, the final draft was not nearly so short as had been wished. Nevertheless, it is hoped that you will give a generous amount of consideration to the answers, bearing in mind the possible "ill effects" of publishing information on certain government matters.

Some definitions are necessary for uniform interpretation:

REGULAR MEETINGS - A government meeting regularly scheduled by statute, ordinance or practice, in which the routine and general business of the organization is taken up. Included also are meetings, called for a special purpose, but for which no attempt is made to hide the fact that the meeting is to be held;

EXECUTIVE SESSIONS - Any meeting before, during or after a "regular" meeting, or one regularly scheduled but held other than in conjunction with a "regular" meeting, in which matters are discussed by an governmental organization that the participants do not want to make public. Or, any special meeting, for which an attempt is made to hide the fact that the meeting is to take place in order to discuss matters that the participants do not want to make public;

JUDICIAL or QUASI-JUDICIAL - Meetings of a judicial body or of an agency holding, by statute, the power to make legal decisions on the application of federal, state or local law, in which actual deliberations on the case take place;

PRIVILEGED REC RES - Those records which, by statute or common law, are exempt from inspection by the press and public "in the public interest".

After receipt and tabulation of these questionnaires, a field trip is planned in which some of the more interesting incidents reported will be investigated further. If you think any of your experiences will be worth more complete study, please indicate such in your comments.

Thank you for your cooperation. I am hoping to receive your completed questionnaire very soon in the enclosed envelope.

Sincerely,

(Signed) Howard D. Neighbor

Howard D. Neighbor

Newspaper Questionnaire

1. Name and title of returnee: _____.
2. Name of newspaper: _____.
3. City in which located: _____.
4. County in which located: _____.
5. Publication frequency: Daily ____; Bi-Weekly ____; Weekly ____.
6. Editorial policy: Republican ____; Democrat ____; Independent ____.
7. City administration: Republican ____; Democrat ____; Independent ____.
8. County administration: Republican ____; Democrat ____; Independent ____.

(Answer following questions "yes" or "no". If "yes", give brief details on blank sheet attached, identifying remarks with number and part of question.)

9. Are you now or have you ever been refused admittance to any "executive session" of any branch of the government of: (a) state ____; (b) county ____; (c) city ____?
10. Are you now or have you ever been refused admittance to any "executive session" of any branch of the government of: (a) state ____; (b) county ____; (c) city ____?
11. Are you regularly admitted to any deliberative session of any body holding "judicial" or "quasi-judicial" powers: (a) state ____; (b) county ____; (c) city ____?
12. Are there now or have there ever been meetings of any government branch from which you were not actually "excluded", but which you were "requested" not to attend of: (a) state ____; (b) county ____; (c) city ____?
13. Are there any meetings which you are allowed to attend, but in which you are asked to withhold from the public information received, in: (a) state ____; (b) county ____; (c) city ____?
14. Are you in favor of state legislation making it mandatory that: (include comment)
 - (a) All government meetings be open to the press? ____.
 - (b) All meetings except "judicial" or "quasi-judicial" open to the press? ____.
 - (c) Only "regular" meetings open to the press?

15. Are there frequent instances of your being unable to cover any of the above meetings because of inadequate notification that the meeting is to be held in: (a) state ____; (b) county ____; (c) city ____?
16. Are you in favor of legislation making it mandatory that formal public notification be given in advance for all public government meetings? _____. (include comment)
17. Are you now or have you ever been refused access to the records of any branch of the government of: (a) state ____; (b) county ____; (c) city ____? (list records)
18. Are there any records which you are allowed to examine, but the contents of which you are asked to withhold from the public, in any branch of the government of: (a) state ____; (b) county ____; (c) city ____? (list records)
19. Are you in favor of state legislation making it mandatory that: (include comment)
(a) All government records should be open to the press? _____.
(b) All except "privileged" government records should be open to the press? _____.

Table 4. Newspaper Questionnaire Tabulations.

		Total	: Daily	: Weekly	: Tri-Bl-Weekly
9.	b) county: Yes:	5	4	1	0
	No:	74	13	57	4
	c) city: Yes:	4	3	1	0
	No:	76	15	57	4
10.	b) county: Yes:	9	5	4	0
	No:	64	11	50	3
	c) city: Yes:	13	6	6	1
	No:	68	12	53	3
12.	b) county: Yes:	8	4	4	0
	No:	58	13	41	4
	c) city: Yes:	8	2	6	0
	No:	69	15	20	4
13.	b) county: Yes:	18	6	11	1
	No:	42	10	30	2
	c) city: Yes:	34	8	24	2
	No:	41	9	30	2
15.	b) county: Yes:	21	4	17	0
	No:	41	9	28	4
	c) city: Yes:	23	2	21	0
	No:	48	12	32	4
16.	Yes:	55	17	36	2
	No:	22	2	18	2
17.	b) county: Yes:	18	9	9	0
	No:	53	7	43	3
	c) city: Yes:	11	2	8	1
	No:	64	14	47	3
18.	b) county: Yes:	22	5	16	1
	No:	44	9	33	2
	c) city: Yes:	15	2	12	1
	No:	52	13	36	3

Radio Television Questionnaire

The Radio Television Questionnaires were mailed to 52 station managers on the 28th of January 1954. By April first, 1954, 15 of them had been returned, for a percentage of 29. Of the 44 radio stations queried, 12 sent replies for 27.3%; while 3 of 8 television stations mailed back the completed form for 37.5%. The list of returning stations is on page 175.

The questionnaire and covering letter used for the Radio/TV survey appear on pages 176 to 179. The breakdown of questions is on page 180.

As in the newspaper questionnaire tabulations, several questions have been omitted. Questions one through four are for identification, and question seven proved to be as confusing to radio and television as to newspapers. They are all eliminated from the tabulations.

The opinion questions 10, 12 and 17 were recorded in the supplementary questionnaire of March 6, 1954. Results on them are found under the heading "Supplementary Questionnaire" on page 184.

They are, of course, not tabulated in this section. As in the case of the newspapers, "state" has also been eliminated, since there was little experience with state meetings on the part of radio and TV stations.

Stations Returning.

Radio.

1. KANS, Wichita
2. KAYS, Hays
3. KFH, Wichita
4. KGNO, Dodge City
5. KIMD, Independence
6. KILN, Lawrence
7. KMAN, Manhattan
8. KSOX, Arkansas City
9. KTOF, Topeka
10. KXXY, Colby
11. WHP, Kansas City, Missouri
12. WIEW, Topeka

Television.

1. WDAF-TV, Kansas City, Missouri
2. WKB-TV, Kansas City, Missouri
3. WIEW-TV, Topeka

Radio and TV letter

28 January 1954

Dear Manager:

There has been much discussion of late on the subject, "The People's Right to Know", in Kansas and around the nation. Various organizations have conducted national studies on the question, among them a report by the Freedom of Information Committee of the Radio Television News Directors Association.

As far as I know, no complete study has been attempted in Kansas. Yet, there is now a proposal before the Kansas Legislative Council that legislation be offered to the next session of the Legislature making it mandatory that all, or certain meetings of the state, county and city governments be open to the public and the "press".

With the approval of the Kansas State College Graduate School, I am preparing a thesis on, "Freedom of Information in the State and Local Governments of Kansas". When completed, the study will be submitted toward a masters degree, and then forwarded to the Kansas Legislative Council for their use in consideration of "Proposal 13".

Indispensable to such research, of course, are the opinions of the radio and TV station managers throughout the state. The enclosed questionnaire is submitted to you for the purpose of getting these opinions.

Every attempt was made to reduce it to manageable size. But, as you can imagine on such a complex question, the final draft was not nearly so short as had been wished. Nevertheless, it is hoped you will give a generous amount of consideration to the answers, bearing in mind the possible "ill effects" of broadcasting information on certain government matters.

Some definitions are necessary for uniform interpretation:

REGULAR MEETING - A government meeting regularly scheduled by statute, ordinance or practice, in which the routine and general business of the organization is taken up. Included also are meetings called for a special purpose, but for which no attempt is made to hide the fact that the meeting is to be held;

EXECUTIVE SESSION - Any meeting before, during or after a "regular" meeting, or one regularly scheduled but held apart from a "regular" meeting, in which matters are discussed by an governmental organization that the participants do not want to make public. Or, any special meeting for which an attempt is made to hide the fact that the meeting is to take place in order to discuss matters that the participants do not want to make public;

JUDICIAL or QUASI-JUDICIAL - Meetings of a judicial body or of an agency

holding, by statute, the power to make legal decisions on the application of federal, state or local law, in which actual deliberations on the case take place;

PRIVILEGED RECORDS - These records which, by statute or common law, are exempt from inspection by the press and public "in the public interest".

After receipt and tabulation of these questionnaires, a field trip is planned in which some of the more interesting incidents reported will be investigated further. If you think any of your experiences will be worth more complete study, please indicate such in your comments.

Thank you for your cooperation. I am hoping to receive your completed questionnaire very soon in the enclosed envelope.

Sincerely,

(Signed) Howard D. Neighbor

Howard D. Neighbor

Radio and TV Questionnaire

1. Name and title of returnee: _____.
2. Call letters of station: _____; Radio ____; TV ____.
3. City in which located: _____.
4. County in which located: _____.

(Answer following questions "yes" or "no". If "yes" give brief details on blank sheet attached, identifying remarks with number and part of question.)

5. Are you now or have you ever been refused admittance to any "regular" meeting of any branch of the government of: (a) state ____; (b) county ____; (c) city ____?
6. Are you now or have you ever been refused admittance to any "executive session" of any branch of the government of: (a) state ____; (b) county ____; (c) city ____?
7. Are you regularly admitted to any deliberative session of any body holding "judicial" or "quasi-judicial" powers: (a) state ____; (b) county ____; (c) city ____?
8. Are there now or have there ever been meetings of any government branch from which you were not actually "excluded", but which you were "requested" not to attend of: (a) state ____; (b) county ____; (c) city ____?
9. Are there any meetings which you are allowed to attend, but in which you are asked to withhold from the public, information received in: (a) state ____; (b) county ____; (c) city ____?
10. Are you in favor of state legislation making it mandatory that: (include comment)
 (a) All government meetings be open to the "press"? ____.
 (b) All meetings except "judicial" or "quasi-judicial" open to the "press"? ____.
 (c) Only "regular" meetings open to the "press"? ____.
11. Are there any meetings which you are allowed to cover, but in which recordings and direct broadcasts are prohibited in: (a) state ____; (b) county ____; (c) city ____?
12. Are you in favor of state legislation making it mandatory that: (include comment)
 (a) All government meetings open for recordings and/or direct broadcast? ____.

- (b) All except "judicial" or "quasi-judicial" meetings open for recordings and/or direct broadcast? ____.
- (c) Regular meetings open for recordings and/or direct broadcast? ____.
13. Are there frequent instances of your being unable to cover any of the above meetings because of inadequate notice: (a) state ____; (b) county ____; (c) city ____?
14. Are you in favor of legislation making it mandatory that formal notice be given in advance of all public meeting of government? _____. (include comment)
15. Are you now, or have you ever been refused access to the records of any branch of the government of: (a) state ____; (b) county ____; (c) city ____? (list records)
16. Are there any records which you are allowed to examine, but the contents of which you are asked to withhold from the public, in any branch of the government of (a) state ____; (b) county ____; (c) city ____? (list records)
17. Are you in favor of state legislation making it mandatory that: (include comment)
- (a) All government records should be open to the "press"? ____.
- (b) All except "privileged" records should be open to the "press"? ____.

Table 5. Radio and TV Questionnaire Tabulations.

		Total	Television	Radio
5. b) county:	Yes:	0	0	0
	No:	13	3	10
c) city:	Yes:	0	0	0
	No:	13	3	10
6. b) county:	Yes:	0	0	0
	No:	13	3	10
c) city:	Yes:	3	1	2
	No:	10	2	8
8. b) county:	Yes:	2	1	1
	No:	10	1	9
c) city:	Yes:	4	1	3
	No:	8	1	7
9. b) county:	Yes:	6	2	4
	No:	6	1	5
c) city:	Yes:	9	2	7
	No:	4	1	3
11. b) county:	Yes:	3	0	3
	No:	5	0	5
c) city:	Yes:	3	0	3
	No:	5	0	5
13. b) county:	Yes:	4	0	4
	No:	8	3	5
c) city:	Yes:	5	0	5
	No:	7	3	4
14.	Yes:	11	3	8
	No:	2	0	2
15. b) county:	Yes:	0	0	0
	No:	12	3	9
c) city:	Yes:	0	0	0
	No:	12	3	9

Table 5 (cont.)

		Total	Television	Radio
16. b) county:	Yes:	3	1	2
	No:	7	2	5
c) city:	Yes:	2	1	1
	No:	6	2	6

Supplemental Questionnaire

There were 383 supplemental questionnaires mailed to those persons who had answered the original questionnaire by March 6, 1954. Returned were 321 for a percentage of 84. Newspaper representatives answered 65 of 78 for 83%; Radio and Television replied 12 of 13 for 92%; County government representatives returned 34 of 46 for 74%; City government representatives answered 80 of 100 for 80%; and School system representatives returned 130 of 146 for 89%.

This questionnaire was necessary because there was no opportunity for answering "No legislation necessary" on the original queries. The questionnaire and its covering letter will be found on pages 183 and 184.

The breakdown of questions is on pages 185 to 187. Newspaper replies are broken down according to their publication frequency, city and county answers are listed according to population. There is no special breakdown for radio/TV and county government.

Supplemental Letter

6 March 1954

My Apologies Sir:

Inaccuracies have resulted from the phrasing of certain questions in my recent query to you. In order to obtain a true sample of opinion on the subject: "Freedom of Information in the State and Local Governments of Kansas," it has become necessary to rephrase these wayward propositions.

Three "rebuilt" questions are offered on the enclosed, addressed postal card. I would appreciate it very much if you would take time right now to check the answers and return the card. The

Time has become an important consideration in my study. Unfortunately there is little of it left. For that reason it would help to have your answers returned in the next day or so.

Would like to thank you very much for the cooperation on the original questionnaire. The response was excellent and your answers and comments were extremely helpful.

One more thing! If you have any objection to having your initial comments quoted, please indicate as much on the bottom of the postal card where space is provided (unless, of course, you have already done so).

Thank you again.

Sincerely,

(Signed) Howard D. Neighbor

Howard D. Neighbor

Questionnaire.

SUPPLEMENTAL QUESTIONNAIRE

6 March 1954

Org:
Name:
City

1. Do you favor: (check one)
 - (a) State legislation requiring all government meetings open to press; _____;
 - (b) "Regular" meetings open; _____;
 - (c) No legislation necessary; _____;
2. Do you favor: (check one)
 - (a) State legislation opening all "public" meetings to radio-TV; _____;
 - (b) To only radio broadcasting; _____;
 - (c) No legislation necessary; _____;
3. Do you favor: (check one)
 - (a) State legislation requiring all government records open to press; _____;
 - (b) All but privileged open; _____;
 - (c) No legislation necessary; _____;

Table 6. Supplemental Questionnaire Tabulations.

Table 6-a. Newspapers.

	Total	Daily	Weekly	Tri-Bl-Weekly
1. a)	40	8	31	1
b)	16	3	12	1
c)	9	2	7	0
2. a)	33	3	29	1
b)	1	0	1	0
c)	31	9	21	1
3. a)	43	5	37	1
b)	15	7	7	1
c)	7	1	6	0

Table 6-b. Radio and Television.

	Total	Radio	Television
1. a)	5	5	0
b)	0	0	0
c)	7	4	3
2. a)	4	4	0
b)	0	0	0
c)	8	5	3
3. a)	4	4	0
b)	0	0	0
c)	8	5	3

Table 6-c. County Government.

		Total
1.	a)	10
	b)	14
	c)	10
2.	a)	12
	b)	2
	c)	20
3.	a)	12
	b)	12
	c)	10

Table 6-d. City Government.

		: Over Total : 15,000	: 5000- : 15,000	: 2000- : 5000	: Under : 2000
1.	a)	19	0	1	5
	b)	23	3	2	4
	c)	32	5	10	6
2.	a)	17	1	1	4
	b)	2	0	0	0
	c)	60	7	12	11
3.	a)	26	1	1	5
	b)	15	1	2	3
	c)	39	6	10	7

Table 6-e. School Government

		Over	500-	2000-	Under
		Total : 15000	: 15000	: 5000	: 2000
1.	a)	15	0	0	12
	b)	44	1	2	34
	c)	71	5	6	42
2.	a)	24	0	0	21
	b)	1	0	0	0
	c)	103	6	8	66
3.	a)	35	0	5	23
	b)	26	0	0	25
	c)	69	6	3	40

Table 6-f. Totals.

		Totals
1.	a)	89
	b)	97
	c)	135
2.	a)	90
	b)	6
	c)	222
3.	a)	120
	b)	68
	c)	133

FREEDOM OF INFORMATION
IN THE STATE AND LOCAL GOVERNMENTS OF KANSAS

by

HOWARD D. NEIGHBOR

B. S., Kansas State College
of Agriculture and Applied Science, 1948

AN ABSTRACT OF A THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF SCIENCE

Department of History, Government, and Philosophy

KANSAS STATE COLLEGE
OF AGRICULTURE AND APPLIED SCIENCE

1954

The primary question for consideration was, "Is state legislation necessary in order to secure, for the people of Kansas, freedom of information in state and local government?" That is, "Is legislation necessary to insure free public access to government meetings and records?"

The answer to these questions depended upon several factors, including the status of Kansas law in relation to freedom of information, the degree to which access to government meetings and records was already practiced, and the support such legislation would receive from government and news media representatives.

The status of Kansas law was established by means of a study of Kansas statute books and a codification of laws relating to the problem. An indication of the degree of access in local government was obtained from a questionnaire to local government and news media representatives. Practices at the state level were determined by use of replies to a letter from Dr. F. H. Guild, Director of the Research Department, Kansas Legislative Council, to all state administrative and regulatory bodies. The consensus in regard to prospective legislation was secured from the local government and news media questionnaires. At the local level city, county, and school government representatives were contacted, along with radio, television, and newspaper representatives.

Three highly significant and closely related factors were apparent from examination of the conditions of freedom of information in Kansas. First, there was a fairly widespread unfamiliarity with the problem. Second, there was an almost insignificant incidence of abuse of freedom of information by government officials, and an equally insignificant abuse of the press privilege by newspapers and radio/TV stations. Third, the percentage of government

meetings attended by the press and public was extremely low.

The three significant factors pointed up a most important argument against any form of legislation: i. e. there is no need for such legislation in Kansas at the present time because the freedom already exists.

Arguments favoring legislation became apparent, however, that tipped the scales in the other direction. The statutes which contain the Kansas legal doctrine in regard to freedom of information are conflicting, confusing, and quite difficult to locate. It would be a tremendous advantage to the state to have a uniform law by which a general policy of access to meetings and records would be outlined for all governing bodies and offices of the state.

Kansas is relatively free from the abuses of government and news media representatives because, the population being small and widely dispersed, there is a relatively high degree of intercourse between citizens and the news media or government representative. Also there is not enough money involved in either government activity or the news business to draw the abusive element to Kansas.

However, Kansas is a fast growing state. When the population reaches the point where contact is lost between government officials, news personnel, and the public; where the financial activities are great enough to attract the corrupt element, then legislation will be necessary. The time to pass such legislation would be now, when there is little opposition.

Legislation should not attempt to secure a higher degree of freedom than is present in Kansas today. Nearly all government meetings and records are open to the public and press. Legislation should only secure for the future those conditions that exist today.

legislation should include the following points: (1) All official government acts should be in open meeting. (2) Closed sessions should be permitted for preliminary discussion, as long as final decisions are in open meeting. (3) Personnel problems should be handled in closed session. (4) Formal hearings of a quasi-judicial body should be in open session. (5) The time and place of all meetings, except those regularly held, should be published at least 24 hours prior to the meeting. (6) Broadcasting and telecasting should be left to the discretion of the governing body. (7) All government records should be open to public inspection except those designated by the Attorney General as "privileged."